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NATIONAL ARCHIVES MICROFILM PUBLICATIONS

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RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA V. KARL BRANDT ET AL. (CASE I)

NOVEMBER 21, 1946-AUGUST 20, 1947

Roll 8

Transcript Volumes (English Version)

Volumes 19-21

May 1-21, 1947



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INTRODUCTION

On the 46 rolls of this microfilm publication are reproduced the records of Case I (*United States of America v. Karl Brandt et al.*, or the "Medical" Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs, and final pleas of the defendants as well as prosecution and defense exhibits and document books in one language or the other. Also included in this publication are a minute book, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 30 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. The prosecution and defense briefs and answers are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. The unbound prosecution exhibits, numbered 1-570, are essentially those documents from various Nuernberg record series offered in evidence by the prosecution in this case. The defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically. Both prosecution document books and defense document books consist of full or partial translations of exhibits into the English language. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

The minute book, in one bound volume, is a summary of the transcripts. The official court file, in four bound volumes, includes the progress docket, the indictment, amended indictment, and the service thereof; appointments and applications of defense counsel and defense witnesses and prosecution comments thereto; defendants applications for documents; motions; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Clemency petitions of the defendants, in five bound volumes, were directed to the military governor, the Judge Advocate General, the U.S. district court, the Secretary of Defense, and the Supreme Court of the United States. The finding aids summarize transcripts, exhibits, and the official court file.

Case I was heard by U.S. Military Tribunal I from November 21, 1946, to August 20, 1947. The records of this case, as the

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records of the other Nuernberg and Far East (IMTFE) war crimes trials, are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The Brandt case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weizsaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the International Military Tribunal against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943, Executive Order 9547 of May 2, 1945, the London Agreement of August 8, 1945, the Berlin Protocol of October 6, 1945, and the Charter of the International Military Tribunal.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances Nos. 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. The procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the International Military Tribunal and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

The crimes charged in the Brandt case consisted largely of medical experiments performed on defenseless concentration camp inmates against their will; "euthanasia" carried out on the mentally defective, the physically sick, the aged, and ethnic and racial groups; and the murder of concentration camp inmates for the express purpose of collecting skulls and skeletons for the Anatomical Institute of the Reich University of Strassburg. The following medical experiments were conducted:

1. High altitude: to investigate effects of low pressure on persons.
2. Freezing: to test human resistance to extremely low temperatures.
3. Malaria: to develop controls over the recurring nature of the disease.
4. Mustard gas: part of a general research program in gas warfare.
5. Sulfanilamide: to test the efficacy of the drug in bone muscle and nerve regeneration and bone transplantation.
6. Seawater: to test methods of rendering seawater potable.
7. Epidemic jaundice: to develop an antitoxin against the disease.
8. Sterilization: to test techniques for preventing further propagation of the mentally and physically defective.
9. Typhus: to investigate the value of various vaccines.
10. Poison: to test the efficacy of certain poisons.
11. Incendiary bomb: to find better treatment for phosphorus burns.

The prosecution alleged and the judgment confirmed that these experiments were not isolated acts of individual doctors and scientists on their own responsibility but that they were the result of high-level policy and planning. They were carried out with particular brutality, often disregarding all established medical practice. Consequently, large numbers of the victims died in the course of or as a result of the experiments.

The euthanasia program was the direct result of a directive by Hitler of September 1, 1939. It resulted in the secret killing not only of aged, insane, incurably ill, and deformed German citizens in sanatoriums in Germany but also in the clandestine murder of foreign workers. The killing in gas chambers and by injections in the sanatoriums served as a proving ground for these forerunners of much larger installations in the mass extermination camps.

In addition to these experiments, over 100 concentration camp inmates were killed for the purpose of obtaining their skeletons. Their ghastly remains were found in Strassburg by Allied troops.

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The transcripts of the Brandt case include the indictments of the following 23 persons all of whom were physicians except defendants Rudolf Brandt, Viktor Brack, and Wolfram Sievers:

Karl Brandt: Personal physician to Adolf Hitler, Gruppenfuehrer in the SS and Generalleutnant (Major General) in the Waffen SS, Reichskommissar fuer Sanitaets- und Gesundheitswesen (Reich Commissioner for Health and Sanitation), and member of the Reichsforschungsrat (Reich Research Council).

Kurt Blome: Deputy [of the] Reichsgesundheitsfuehrer (Reich Health Leader) and Plenipotentiary for Cancer Research in the Reich Research Council.

Rudolf Brandt: Standartenfuehrer (Colonel) in the Allgemeine SS, Persoenlicher Referent von Himmler (Personal Administrative Officer to Reichsfuehrer SS Himmler), and Ministerial Counselor and Chief of the Ministerial Office in the Reich Ministry of the Interior.

Joachim Mrugowsky: Oberfuehrer (Senior Colonel) in the Waffen SS, Oberster Hygieniker, Reichsarzt SS und Polizei (Chief Hygienist of the Reich Physician SS and Police), and Chef des Hygienischen Institutes der Waffen SS (Chief of the Hygienic Institute of the Waffen SS).

Helmut Poppendick: Oberfuehrer in the SS and Chef des Persoenlichen Stabes des Reichsarztes SS und Polizei (Chief of the Personal Staff of the Reich Physician SS and Police).

Wolfram Sievers: Standartenfuehrer in the SS, Reich Manager of the "Ahnenerbe" Society and Director of its Institut fuer Wehrwissenschaftliche Zweckforschung (Institute for Military Scientific Research), and Deputy Chairman of the Managing Board of Directors of the Reich Research Council.

Karl Genzken: Gruppenfuehrer in the SS and Generalleutnant in the Waffen SS and Chef des Sanitaetsamts der Waffen SS (Chief of the Medical Department of the Waffen SS).

Karl Gebhardt: Gruppenfuehrer in the SS and Generalleutnant in the Waffen SS, personal physician to Reichsfuehrer SS Himmler, Oberster Kliniker, Reichsarzt SS und Polizei (Chief Surgeon of the Staff of the Reich Physician SS and Police), and President of the German Red Cross.

Viktor Brack: Oberfuehrer in the SS and Sturmbannfuehrer (Major) in the Waffen SS and Oberdienstleiter, Kanzlei des Fuehrers der NSDAP (Chief Administrative Officer in the Chancellery of the Fuehrer to the NSDAP).

Waldemar Hoven: Hauptsturmfuehrer (Captain) in the Waffen SS and Chief Physician of the Buchenwald Concentration Camp.

Herta Oberheuser: Physician at the Ravensbrueck Concentration Camp and assistant physician to the defendant Gebhardt at the hospital at Hohenlychen.

Fritz Fischer: Sturmbannfuehrer in the Waffen SS and assistant physician to the defendant Gebhardt at the hospital at Hohenlychen.

Siegfried Handloser: Generaloberstabsarzt (Lieutenant General, Medical Service), Heeressanitaetsinspekteur (Medical Inspector of the Army), and Chef des Wehrmachtsanitaetswesens (Chief of the Medical Services of the Armed Forces).

Paul Rostock: Chief Surgeon of the Surgical Clinic in Berlin, Surgical Adviser to the Army, and Amtschef der Dienststelle Medizinische Wissenschaft und Forschung (Chief of the Office for Medical Science and Research) under the defendant Karl Brandt, Reich Commissioner for Health and Sanitation.

Oskar Schroeder: Generaloberstabsarzt; Chef des Stabes, Inspekteur des Luftwaffe-Sanitaetswesens (Chief of Staff of the Inspectorate of the Medical Service of the Luftwaffe); and Chef des Sanitaetswesens der Luftwaffe (Chief of the Medical Service of the Luftwaffe).

Hermann Becker-Freyseng: Stabsarzt in the Luftwaffe (Captain, Medical Service of the Air Force) and Chief of the Department for Aviation Medicine of the Medical Service of the Luftwaffe.

Georg August Weltz: Oberfeldarzt in the Luftwaffe (Lieutenant Colonel, Medical Service of the Air Force) and Chief of the Institut fuer Luftfahrtmedizin (Institute for Aviation Medicine) in Munich.

Wilhelm Beiglboeck: Consulting physician to the Luftwaffe.

Gerhard Rose: Generalarzt of the Luftwaffe (Brigadier General, Medical Service of the Air Force); Vice President, Chief of the Department for Tropical Medicine, and Professor of the Robert Koch Institute; and Hygienic Adviser for Tropical Medicine to the Chief of the Medical Service of the Luftwaffe.

Siegfried Ruff: Director of the Department for Aviation Medicine at the Deutsche Versuchsanstalt fuer Luftfahrt (German Experimental Institute for Aviation).

Hans Wolfgang Romberg: Physician on the staff of the Department for Aviation Medicine at the German Experimental Institute for Aviation.

Konrad Schaefer: Physician on the staff of the Institute for Aviation Medicine in Berlin.

Adolf Pokorny: Physician, specialist in skin and venereal diseases.

The indictment consisted of four counts. Count one charged participation in a common design or conspiracy to commit war crimes or crimes against humanity. The ruling of the tribunal disregarded this count, hence no defendant was found guilty of the crime charged in count one. Count two was concerned with war crimes and count three, with crimes against humanity. Fifteen defendants were found guilty, and eight were acquitted on these two counts. Ten defendants were charged under count four with membership in a criminal organization and were found guilty.

The transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty), opening and closing statements of defense and prosecution, and the judgment and sentences, which acquitted 7 of the 23 defendants (Blome, Pokorny, Romberg, Rostock, Ruff, Schaefer, and Weltz). Death sentences were imposed on defendants Brack, Karl Brandt, Rudolf Brandt, Hoven, Gebhardt, Mrugowsky, and Sievers, and life imprisonment on Fischer, Genzken, Handloser, Rose, and Schroeder; varying terms of years were given to defendants Becker-Freyseng, Beiglboeck, Oberheuser, and Poppendick.

The English-language transcript volumes are arranged numerically, 1-30; pagination is continuous, 1-11538. The German-language transcript volumes are numbered 1a-30a and paginated 1-11756. The letters at the top of each page indicate morning, afternoon, and evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Several hundred pages are added to the transcript volumes and given number plus letter designations, such as page number 1044a. Page 1 in volume 1 (English) is preceded by pages numbered 001-039, while the last page of volume 28 (English) is followed by pages numbered 1-48.

Of the many documents assembled for possible prosecution use, 570 were chosen for presentation as evidence before the tribunal. These consisted largely of orders, directives, and reports on medical experiments or the euthanasia program; several interrogation reports; affidavits; and excerpts from the *Reichsgesetzblatt* (the official gazette of Reich laws) as well as correspondence. A number

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of the medical reports were accompanied by series of photographs and charts of various experiments.

The first item in the arrangement of the prosecution exhibits is usually a certificate listing the document number, a short description of the exhibit, and a statement on the location of the original document of the exhibit. The certificate is followed by the document, the actual prosecution exhibit (most of which are photostats), and a few mimeographed articles with an occasional carbon of the original. In rare cases the exhibits are followed by translations or additional certificates. A few exhibits are original documents, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
301	NO-1314	410	NO-158
307	NO-120	441	NO-1730
309	NO-131	443	NO-890
310	NO-132	451	NO-732
357	1696 PS	462	NO-1424
362	628 PS	507	NO-365
368	NO-817	546	NO-3347
403	616 PS		

No certificate is attached to several exhibits, including exhibits 433, 435-439, 462, 559, and 561. Following exhibit 570 is a tribunal exhibit containing the interrogation of three citizens of the Netherlands. Number 494 was not assigned, and exhibit 519 is followed by 519a and 519b.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, *Reichsgesetzblatt* excerpts, and other items. There are 901 exhibits for the defendants. The defense exhibits are arranged by name of defendant and thereunder by exhibit number, each followed by a certificate wherever available.

The translations in the prosecution document books are preceded by indexes listing prosecution document numbers, biased descriptions, and page numbers of the translation. They are generally listed in the order in which the prosecution exhibits were introduced into evidence before the tribunal. Pages 81-84 of prosecution document book 1 are missing. Books 12, 16, and 19 are followed by addenda. The document books consist largely of mimeographed pages.

The defense document books are similarly arranged. Each book is preceded by an index giving document numbers, description, and page number for each exhibit. The corresponding exhibit numbers are generally not provided. There are several unindexed supplements to numbered document books. Prosecution and defense briefs are arranged alphabetically by names of defendants; final pleas and defense answers to prosecution briefs follow a similar

scheme. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

The English-language final pleas, closing briefs, and replies to prosecution briefs of several defendants are missing, as are a few German-language closing briefs and replies to prosecution briefs.

At the beginning of roll 1 are filmed key documents from which Tribunal I derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the Charter of the International Military Tribunal, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of the members of Tribunal I and counsels.

These documents are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by summaries of the daily proceedings providing an additional finding aid for the transcripts. The exhibits are listed in an index, which notes type of exhibit, exhibit number and name, corresponding document number and document book and page, a short description of the exhibit, and the date when it was offered in court. The official court file is indexed in the court docket, which is followed by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of prosecution and defense exhibits already microfilmed or opening statements of prosecution and defense, which can be found in the transcripts of the proceedings.

The records of the Brandt case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the International Military Tribunal, T988; NI (Nuernberg Industrialist) Series, T301; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; and records of the Milch case, M888, the List case, M893, the Greifelt case, M894, and the Ohlendorf case, M895. In addition, the record of the International Military Tribunal at Nuernberg has been published in *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947), 42 vols. Excerpts from the subsequent proceedings have been published as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (U.S. Government Printing Office: 1950-53), 15 vols. The Audiovisual Archives Division of the National Archives and Records Service holds motion picture records and photographs of all 13 trials and tape recordings of the International Military Tribunal proceedings.

John Mendelsohn wrote these introductory remarks and arranged the records for microfilming in collaboration with George Chalou.

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Roll 8

Target 1

Volume 19

May 1-7, 1947

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

**CASE No. 1 TRIBUNAL I
U.S. vs KARL BRANDT et al
VOLUME 19**

**TRANSCRIPTS
(English)**

1-7 May 1947 pp. 6763-7192

Official Transcript of the American Military
Tribunal in the matter of the United States of
America against Karl Brandt, et al, defendants,
sitting at Nurnberg, Germany on 1 May 1947,
0930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find
their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United
States of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the defend-
ants are all present in court.

THE MARSHAL: May it please your Honor, all defendants are
present in the court with the exception of the Defendant
Oberhouser, absent due to illness.

THE PRESIDENT: The Secretary-General will note the
presence of all the defendants in court save the Defendant
Oberhouser. The prison physician having filed a certificate
that the Defendant Oberhouser is unable to attend court
today, she will be excused pursuant to that certificate,
it appearing that her absence will in no way prejudice
her case.

Counsel may proceed.

DR. VORWERK: (Counsel for the Defendant Romberg): Mr.
President, I think I am correct in assuming that the high
tribunal has Romberg's document book available to them.

THE PRESIDENT: We have not yet received it.

(Document book handed to the Tribunal.)

DR. VORWERK: The Defense of the Defendant Romberg will now



call the Defendant Romberg into the witness stand, and in the course of his examination will submit the individual affidavits. With the approval of the Tribunal, I ask that the Defendant Romberg be called into the witness stand.

THE PRESIDENT: At the request of his counsel, the Defendant Romberg will take the witness stand.

DR. HANSROMBERG, a defendant, took the stand and testified as follows:

BY JUDGE SEBRING:

Q. The Defendant will raise his right hand and be sworn.

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

JUDGE SEBRING: You may be seated.

DIRECT EXAMINATION

BY DR. VORWERK:

Q. Your name is Hans Wolfgang Romberg, is that correct?

A. Yes.

Q. When and where were you born?

A. I was born on the 15th of May, 1911, in Berlin.

Q. Would you please be good enough to describe your career to the Tribunal.

A. I went to a humanist High School Gymnasium in Berlin and while going to school my main fields of interest were medicine and technique. I decided to choose the medical profession, and from 1929 to 1935 I studied at the Universities of Berlin and Innsbruck. In the spring of 1935 I took my state examination at Berlin and then proceeded to work as an interne at the hospital in Friedrichshain, Berlin. I was there at the Internal and Surgical Department. Since it was my intention to become a surgeon, I went to Professor Buechner as an assistant to the Patho-

logical Institute in order to gain a basic education in the field of surgery there.

While working with Buechner my interest in aviation medical questions was awakened, since in Buechner's Institute there were animal experiments performed concerning themselves with those questions. Already at that time I volunteered as experimental subject for high altitude experiments performed by other physicians because I was interested in that field. In the year of 1937 I participated in an air medical congress at the RLM in Berlin, to which I gained access by the mediation of Buechner, and became acquainted with the entire field of work of aviation medicine. As a result of this congress, I decided to be active in that sphere because this represented a very fortunate synthesis of my medical and technical interests.

On the 1st of January 1938 I was employed by the Air Medical Department of the DVL of which Dr. Ruff was the head. I was employed as a scientific co-worker and my special assignment was the theoretical and practical evaluation of air accidents. In addition, I simultaneously worked on air medical research questions.

Q. What, in detail, was your work concerning air medical research questions?

A. In addition to my accident work I had research assignments of various types which at first were on the field of acceleration research. In the course of those experiments I worked in many airplane tests with dive bombers and carried out centrifugal experiments. After the DVL, in the year of 1939, received their own low pressure chamber, we started the work in the field of high-altitude research. I currently carried on low pressure chamber experiments, concerning flying ability and in addition there were a number

of research assignments in the field of high-altitude. The initiation for those experiments originated partly from aerial accident work and from the experience which I gained as a result of investigation of air accidents which had not as yet been explained. These were air accidents on the basis of altitude sickness, and it was they that interested me mostly. I soon began to see the fight against high-altitude sickness and death as my special assignment. The first phase of my activity in the combat of accidents was concluded in the spring of 1940 with the report which was already mentioned by Dr. Ruff regarding high-altitude sickness and high-altitude death. I specialized in the field of high altitude research, and carried out many low pressure experiments concerning flying ability in that connection.

Q What was your task within the framework of high altitude research?

A There was a number of activities going on in order to improve high altitude firmness with pharmacological means regarding the effect of continued exposure to respiration oxygen, concerning carbon dioxide content, the effectiveness of pervitin, investigations of parachute descending from high altitudes, explosive decompression experiments in the question of high altitude flying in the pressure chamber, airplanes, and many similar matters.

Q Were there any series of experiments in your institutions carried out by you at that time, and who at that time was in charge of your experiments and whom did you use as experimental subjects?

A We had a series of experiments in all these research assignments. We ourselves were the experimental subjects. Sometimes we had experimental subjects coming from our collaborators in our own institutes, and sometimes from other branches of the DVL. Usually I myself was in charge of these experiments, except in cases when I myself was the experimental subject.

Q Who, for the first time suggested to you that low pressure chamber experiments could be carried out at Dachau?

A In December 1941, after Woltz' visit to Ruff, Ruff called me into his room and told me about his conversation with Woltz. He asked me whether I was prepared to work under these conditions and participate in experiments for the purpose of rescue from high altitudes.

Q You are saying under these conditions, what conditions were you speaking of?

A These were the conditions which Dr. Woltz mentioned to Dr. Ruff on the occasion of his visit. The experiments were to be performed on sentenced criminals who volunteered for these experiments.

Q Was the concept "criminal" discussed at that time already, and what was to be understood by it?

A One meant criminals who had been sentenced by proper courts.

Q Who determined the subject which was to be investigated at Dachau?

A The subject had already been determined as a result of our preceding work, and as a result of the planned experiments which were to be continued. Since this subject, namely the rescue of persons from high altitude was particularly acute, at that time Ruff asked me whether I was prepared to participate in these experiments, working on these questions.

Q In that case am I correct in assuming that already before the Dachau experiments experiments had been carried out in a similar way, and that other experiments were to be continued after the Dachau experiments?

A Yes.

Q That the Dachau experiments merely constituted an excerpt from a large scale experimental plan?

A Yes, that is true.

Q What were your reasons to accept Dachau?

A One can only explain that decision considering the situation as it prevailed at that time. It was the winter of 1941-1942 and the collapse of the Eastern front was already pending because of the unexpected severity of that winter. The emergency situation of the soldiers at the front became very clear also at home for the first time. At that time woolen things were collected for the Front and one could imagine what actually was happening at the Front if one had to resort to such means. The pilots of the medical planes told us what actually was happening. We were also told about conditions by pilots of the DVL who had been committed at the Eastern Front for the purpose of this emergency situation. In addition a new opponent had arisen, the United States of America, and we especially in aviation research were clearer about the importance of that new opponent than many others, we knew what was being built in the United States and what the potentialities were. In America Boeing B-17 planes were flying with exhaust

turbines at high altitudes, the Thunderbolt planes were being used, and we were able to see that the air war would have to embark on an entirely new form, especially regarding high altitudes and numerical employment. We could only make a stand if we did everything to develop our fighters. Here we were particularly concerned with the ME 163 from which we expected considerable success. The increase of flying speed was of extreme importance, also for civilian aviation, and in this situation development, of course, became particularly acute, and our experiments were necessary for the purpose of this development. When Dr. Ruff approached me with that question I didn't consider it very long as to whether I was strong enough or whether I would rather stay in Berlin where I had my family and a comfortable place to work. When I was released to do aviation research work I never thought that this would mean a comfortable position, but I participated in a great number of experiments which were neither pleasant nor non-dangerous.

Q Didn't you have any moral or medical ethical misgivings in carrying out these experiments?

A I had no great moral misgivings. Naturally, I thought about the entire matter thoroughly, but the result of these deliberations was the following: experiments on human beings was an everyday affair with us. In the course of my activity I am sure I carried out about a thousand self experiments, and just as many experiments on other people who belonged to the circle of our Institute. All these people volunteered as experimental subjects, but that was done within the framework of the research of our Institute. I participate in experiments for Ruff and my own work, and I am sure that if any stranger would have asked me to do that I am sure I would not have consented. Within the framework of the activity of the Institute all the co-workers were glad to participate, though we gained no advantages whatsoever from that work. If I was now approached with the question whether I was going to use sentenced criminals who volunteered for the purpose of experiments which were to serve the rescue of pilots, and knowing that if they survived these

1 May-M-DJG-2-4-Maley (Int. Ramlar)
Court No. 1

experiments these criminals would receive a pardon I think it is quite understandable that although having to overcome certain personal inhibitions I had no principle moral misgivings. In addition I know of experiments being performed on inmates in the various countries, and the books of Paul de Kruif, which I possessed, gave me this knowledge.

Although Professor De Kruif, as I have learned here from Professor Alexander, supposedly is not in an unobjectionable position in America and sometimes allegedly does not quite tell the truth in his publications, it is not so decisive what he reports about the individual experiments performed by Grassi or other people. It is much more important to consider the way in which he is reporting these experiments; that he is glorifying these courageous research workers as heroes; that his books were a great success in America and in many other countries; that the German editions were printed in Zurich, the land of the Red Cross; that I never heard or read of an opinion which rejected the books or the experiments which are described therein.

As I know now, I was only aware of an infinitely small part of human experiments carried on abroad. There was yet another condition which strengthened me in my decision. At that time concentration camp inmates who volunteered were committed for the clearing of dud bombs and, as far as I know, were pardoned after having cleared some twenty such dud bombs. I think that compared to that the low pressure chamber experiments seemed to me to be much more harmless and incurred much less danger.

In addition, of course, I put the question whether I personally in the same position would have placed myself at the disposal for such experiments and I, of course, answered that question in the affirmative, for that in effect was what I did.

Q. Did it not repel you at that time working in a concentration camp?

A. It will always be difficult to make it clear to people that hardly one person knew in Germany anything about the concentration camps. According to name, I knew of Dachau and, being a resident of Berlin, I knew of Oranienburg. I never saw a camp personally up to that time. I had heard that professional criminals and political inmates were incarcerated in concentration camps. I had heard nothing of prisoners of war or foreigners who were in concentration camps. In the same way I had

never heard anything of the Jewish extermination program or the mass deportation of Jews into concentration camps, which allegedly already started in the year of 1938. When in the year of 1940 or 1941 the Jews were deported from Berlin, we were told that they were sent to Theresienstadt and from there went to the various cities of the general government in Poland.

Q. When did you take the first steps in order to carry through the experiments?

A. The first step was my journey to Munich to Woltz's institute, where Ruff accompanied me. That was in January of 1942.

Q. A conference with Woltz was the purpose of the journey, was it not?

A. Yes.

Q. Did that conference take place in January of 1942?

A. Yes, we went there for the purpose of this experiment.

Q. Well, who was present at that time?

A. Professor Woltz, Dr. Rascher, Dr. Ruff, and I.

Q. Had you known Dr. Rascher before that conference.

A. No.

Q. Had you known before the conference took place that Dr. Rascher would be present?

A. No, I am sure that I did not know the name.

Q. Were you introduced to Rascher?

A. Yes, he was introduced to me as an Oberarzt of the Luftwaffe.

Q. Was a fifth man present during that conference or at least present part of the time?

A. Yes, I remember that at the beginning Dr. Lutz was present. I think he was already there before the beginning of the conference.

Q. What in detail was discussed during that conference?

A. I think that Dr. Ruff already told about that conference in essence. The question of the experimental subjects was discussed once more. Dr. Rascher had a letter from Himmler which give him authority to

carry out the experiments, which he produced. It was decided to carry out the experiments for the purpose of rescuing from high altitude, using the low pressure chamber at Dachau. At the end of the conference we arranged to meet again the next day at the Reichsfuehrer's office at Munich, where a number of formal questions had yet to be settled.

Q. Wasn't it discussed that one would have to establish contact with the commander of the camp at Dachau?

A. I don't know whether Rascher had already suggested that at that time. The first step was the conference at the Reichsfuehrer's office at Munich and I think that there the decision was made to establish a conference with the commander at Dachau.

Q. During that conference did Rascher wear the uniform of an SS officer or a Luftwaffe doctor?

A. No, he had the uniform of an Oberarzt, a lieutenant of the Luftwaffe.

Q. Was he introduced to you as an officer of the Luftwaffe or an officer of the SS?

A. No, he was introduced to me as an officer of the Luftwaffe.

Q. Where did the conference take place, at the Reichsfuehrer SS?

A. On the next day, during that conference, we made the acquaintance of Schnitzler, the Munich adjutant of Himmler, who was also informed about the experiments. It was then decided to go out to Dachau by car in order to discuss the necessary matters with the commander there.

Q. Was it arranged that Rascher was to carry out the experiments?

A. Yes, that was arranged.

Q. Were you convinced that Rascher was sufficiently qualified to carry out these experiments?

A. Yes, naturally.

Q. Did you confer with him, or why were you of that opinion?

A. During that conference at Woltz's office we naturally discussed many questions. There was a lot of professional talk and Rascher made a very skillful impression. He told about his work at Schongau, where he

was working at an ack-ack school, where he had prepared a distance gauge for the purpose of ack-ack work. In addition, he seemed to have a good general medical education. I think he had worked in Munich for three or four years doing surgical work and he generally made a skillful impression.

Q. When did you actually go to Dachau?

A. We went there the next day, starting from the Reichsfuehrer's office.

Q. What was discussed with the camp commander at Dachau?

A. Schnitzler, the Munich adjutant, went out with us and there were the four of us and the camp commander was also present during that conference. During that conference all the basical questions of the practical execution were settled. First, the bringing of the pressure chamber to Dachau, its installation in the camp, further the selection of the experimental subjects. The camp commander had already been informed about it by Schnitzler.

Q. Would you please once more repeat what had been arranged with the camp commander concerning that point?

A. Basically the fact that the experimental subjects were to be sentenced criminals who volunteered for that purpose had been determined and was merely confirmed during that conference. We made certain demands regarding the caliber of the experimental subjects. They had to be of a certain age, ranging from twenty-five to thirty-five years; they had to be in good physical condition, had to receive additional rations in order that a good comparison could be drawn to the personnel of the Luftwaffe regarding nourishment and physical condition. In addition, it was determined they were not to work during the time of the experiments. The camp commander then said that Rascher was to select the suitable people.

Q. Did the camp commander state on that occasion that in any way he had tried to bring about a voluntary reporting of the inmates for that purpose?

A. Yes, he had no doubt whatsoever, that under these conditions a large number of persons would report, once he made the facts known to them. Rascher was then to select the suitable people from that crowd.

Q. I am sure that the manner in which the camp commander was to select the people was not discussed in detail, if I understand you correctly? I mean whether they were to be gathered by way of a roll call or in any other way?

A. I don't know how it was done, whether posters were put up or whether they were gathered by way of roll call. At any rate that was not discussed at the time.

Q. Was it then already determined that Rascher alone would deal with the camp commander in the matter of the experimental subjects or were you also authorized to interfere in these matters, was it then already determined whether Rascher alone was to select the experimental subjects or were you to have a vote too?

A. That, of course, was left to Rascher, because he had the corresponding authorization from Himmler.

Q. Did Rascher produce that authorization during a conference, during the preceding conference?

A. Yes, I already said it happened during the time we spoke with Helts. He showed us Himmler's letter.

Q. Do you still remember the contents of that letter?

A. Yes, it said in the letter that the basic authorization for the execution of the high altitude experiments was maintained and that such experiments could be carried out in the concentration camp Dachau. It further said that criminals who had volunteered were to be used and that pardon would be granted to these men after the conclusion of the experimental series.

Q. Did you travel back to Berlin with Dr. Ruff after these conferences?

A. Yes, after this conference we went to Berlin.

Q. Certain preparations had to be made for the beginning of the experiments, who was entrusted with this preparatory work?

A. Preparations were divided. Dr. Ruff was to deal with the transport of the mobile pressure chamber. Then Rascher was to make all necessary preparations in Dachau, selecting the experimental subjects and examining them, and I was to gather the scientific material, as far as it was not yet available, and to work out an experimental program, the basis of which already existed?

Q. Before you returned to Berlin, the decision had already been made that such experiments were to be carried through, is that right?

A. Yes.

Q. Had you, as the representative of your Institute at Adlershof, already previously collaborated with a representative of the Wetz Institute?

A. No, not all frequently, only at one time in January, 1941, when dealing with a mobile low pressure chamber, the witness Lutz has testified about that here, and on that occasion we collaborated with a representative of the Wetz Institute. This was done when the mobile pressure chamber was committed in the campaign of France in order to carry out special experiments on the fighter squadrons. Not only Wetz' institute participated there, but there was a collaboration of many agencies.

Q. Who did participate?

A. There was one physician of the German Experimental Institute for Glider Flying, who was a civilian, who participated; one came from Rehm, who was an Oberarzt of the Luftwaffe, and then there was Dr. Lutz from the Munich Institute, who was also, I think, an Oberarzt of the Luftwaffe, and finally two or three physicians, medical officers of Air Fleet No. 3.

Q. Who was in charge of the chamber at that time?

A. This chamber was supervised by the medical inspectorate and

when it was in France it was under the charge of Air Fleet No. 3. They were caring for fuel, travel orders, etc. Within our detail of physicians, Dr. Deering was entrusted with leadership. He had come from the E Agency at Rehling.

Q. Did you know the individual physicians of that team at that time?

A. I knew Dr. Deering personally very well. I only passably knew the physician who came from the Research Institute for Glider Flying and I didn't at all know Dr. Lutz. I only knew he had come from the Institute Woltz and I didn't know any of the others.

Q. Was the situation approximately the same when using the chamber at Dachau?

A. To what extent it was the same officially I cannot judge. However, I do think it was rather similar. The chamber had been furnished by the medical inspectorate and I went there as a representative of the Ruff Institute while Rascher went there as a member of the Woltz Institute. We all went there for the purpose of collaboration in order to carry out experiments for the purpose of rescue from high altitudes.

Q. Let us revert to the Dachau experiments. How long did you stay in Berlin, after having returned from Dachau to Berlin?

A. I stayed there for a number of weeks, at least during the time it took for the chamber to leave Berlin and go to Munich, that was in the beginning of February.

Q. And after that you returned to Munich, did you?

A. Yes, after the chamber had left Berlin I went after it by rail, one or two days later, in order to carry out the necessary technical preparations of the chamber at Dachau with Rascher.

Q. Did you arrive in Dachau before the chamber or did the chamber arrive before you?

A. The chamber was already there. As soon as I arrived at

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When I telephoned the Wetz Institute to find out whether the
member had arrived, and I then learned it was already at Dachau.
I then telephoned Rascher and went out there together with him.

Q When did the experiments in Dachau start?

A I remember that they actually started on the 22nd or 23rd of February, because I can still recall, as the witness Neff testified here, that a birthday table, so to speak, had been prepared for him. Subsequently, a number of difficulties arose concerning Rascher's being detailed there. The experiments after a day or two were interrupted and Rascher went to Schongau, whereas I returned to Berlin.

Q Before the experiments started, did you have a clearly defined program which was to cover the extent of the experiments?

A Yes, I have already said that the initiation for this experimental series which was to extend over a number of years originated with the commitment of the mobile pressure chambers in France. There we discussed the question of parachute descent from high altitude with the fighter pilots employed there; and we had determined that the pilots were not sure about this because they were neither practical nor theoretical experienced on land in these questions. These experiences gained as a result of the conversations we held with the fighter pilots constituted the initiation to start these experiments.

In the year of 1941 I performed experiments with parachute descents from high altitudes at the DVL, which extended to 12 kilometers. This was the first important practical question because people were already flying at that height. At that time, however, the flying altitude was already being increased. Motors had been built which could increase the altitude of planes up to 16000 meters. Junker, Arado, Henschel and many other airplane manufacturers, were already building pressure cabins; and the

ME-163, which I have already mentioned, and which was the first airplane with an independent rocket propulsion, was already being tested.

The air pressure is artificially maintained in pressure cabins by compression apparatus; in other words, there is always a stronger pressure in the pressure cabin than in the atmosphere which surrounds it. For planes employed at the front a pressure corresponding to eight kilometers had been provided. There was the problem of how the crew could overcome an explosive decompression caused by a leak in the pressure cabin; and this was a question which had already been dealt with by a number of institutes, who concerned themselves with explosive decompression questions. We also had carried out explosive decompression experiments up to seventeen kilometers in height.

It may perhaps be a proof as to how the entire problem was pending at that time that we had built in explosive decompression chambers into the mobile low pressure chambers, because we had intended to lecture the troops about explosive decompression questions. The problem which had been entirely left aside, however, was the question of how the air crew could be saved in the case of an accident occurring in high altitudes, after the crew had survived the explosive decompression: How and with what means can I bring the crew back to earth? - A number of questions had come up: Is it sufficient to use a parachute with oxygen apparatus? Up to what altitudes would it be sufficient? Would the pilots have to drop for some time with a parachute not unfolded? Through what altitudes would they have to fall? Do they wake up by themselves from altitude sickness or not? Are they alert enough afterwards to pull the lever? In what altitude will they awaken?

Then in addition the question came up of what effect cold would have; and in the case of particularly high altitudes the question was added: Can one in such altitudes just by using one's own body leave the plane or does high altitude sickness appear so quickly that certain apparatus would have to be provided which would get the crew out of the plane without their having to act on their own initiative? Then the question came up of how soon after the explosive decompression the altitude sickness arises; how much time is at one's disposal in order to start rescue measures? These were about the most important questions which moved us and which had to be clarified during these experiments.

Q Was it your intention to carry out further experiments in Dachau if the opportunity was available?

A No. By putting these questions the program had been clearly defined. On the other hand, the program was large enough and a sufficient number of questions had to be clarified. I made the necessary preparations. We know that from a technical point of view ten seconds would be at our disposal for leaving the airplane.

DR. VORWERK: Mr. President, I have just learned that a figure had not been mentioned which the witness has stated. He said that at that time motors had been built by a number of manufacturers which were in a position to rise up to 16,000 meters in height. This figure apparently had not been mentioned.

Q Witness, what was Rascher's position in Dachau?

A The position in itself had been clarified by the basic condition raised by Himmler that Rascher had received authorization and at the same time, owing to

the condition, that Rascher would have to participate in the experiments, that any execution of the experiments without him was impossible.

Q What leads you to assume that? What leads you to assume that it would have been impossible to carry out these experiments without the participation of Rascher?

A That can be seen from a letter written by Brandt to Sievers, written the 21st of March 1942, Document 1581-a (PS), Exhibit 48 in Document Book II.

THE PRESIDENT: Counsel, the Tribunal will now be in recess.

(A recess was taken.)

THE MARSHAL: Persons in the court room will please find their seats. The Tribunal is again in session.

BY DR. VORWERK:

Q. Dr. Rosenberg, before we go on where we stopped, I should like to ask you to speak about the necessity of these experiments and to explain what the significance of this machine was that could fly at an altitude of 16 kilometers,

A. I said that motors for air planes were being built at this time which could reach an altitude of 16 kilometers. That is, their maximum achievement was 16 kilometers. The actual ceiling would be two or three kilometers higher than that.

Q. Do you mean to say that this machine would, in practice, be able to reach an altitude of 18 or 19 kilometers.

A. Yes, that would be the highest altitude which it could reach at all. At 16 kilometers it could fly with its entire motor power.

Q. What do you mean by full pressure altitude?

A. That is a very technical expression connected with the compressors. At that altitude, the motors work just as a motor not built especially for high altitude works on the ground. Artificial pressure is created which corresponds to sea level pressure. Above this altitude the efficiency of the machine sinks rapidly.

Q. I believe that this explains that point sufficiently.

Now, we'll go back to the point of Rascher's position in the experiment. You were just beginning to speak of this question before the recess.

A. I said that, without Rascher, it would never have been intended to carry out the experiments and it never would have been possible. That arose from Himmler's original assignment. Practical proof of this is the fact that the experiments were stopped immediately when there were difficulties with Rascher's assignment. This is proved by the letter from Mrs. Rascher to the Reichsfuehrer SS, the 24th of

February 1942, Document NO-263, Exhibit 47. In this letter, Mrs. Rascher writes that there were difficulties of command and that the experiments were stopped; that Rascher has gone back to Schongau. That was the time when I went back to Berlin and later, when the experiments were actually carried out, Rascher had expressly forbidden me to perform experiments in Dachau without his permission or his presence, so that I never did perform any experiments without Rascher. I always waited until he was there. On the days when he was in Schnegau, no experiments were performed. Generally, I did not even go to the experimental station - perhaps to write - but certainly never to carry out experiments. This rule, although, of course, it often delayed the work, seemed justified to me because Rascher had the permission from Himmler to perform these experiments and was responsible to him for the experimental subjects. Also, I myself was under the authority of the camp at Dachau which seriously restricted my independence. For example, my freedom of movement or talking to prisoners, similar things. Rascher himself, on the other hand, on the basis of his powers which he had received from Himmler and on the basis of a special pass, had a very free position. The camp of Dachau was under Himmler's authority. That is shown, for example, by the letter from Himmler to Milch, Document 1617 PS of November, 1942, Exhibit 77. In this letter, Himmler spoke of Holzlochner's conduct and adds that the camp Dachau is under his orders, and Holzlochner would have to submit. Under these conditions, Rascher had taken the low pressure chamber from Munich and set it up.

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Q Who took care of the maintenance during the experiments, that is who worked on the chamber, maintained it?

A There was not a great deal of maintenance work necessary for example loading the batteries or supplying the oxygen, that was taken care of by Rascher and it was probably paid for by the camp

Q Was Rascher responsible to you for that?

A No, Rascher was not responsible to me at all. He was responsible to the medical inspectorate because the chamber belonged to them.

Q Did you have an opportunity to give Rascher any orders or prohibition or instructions?

A No, that can no doubt be seen from what I have already said. I could not give him any orders. I certainly could not forbid him to do anything only for the progress of these experiments for rescue from high altitude I had a certain advisory right as is customary for two scientists who are working together on the same task, and when one of the two has greater knowledge pertinent to the specific task.

Q You said the experiments began on February 22 or February 23, was that the time when you saw the experimental subjects for the first time?

A Yes. On that day I went out to Dachau for the first time together with Rascher, and met the experimental subjects for the first time.

Q About how many were there?

A There were 10 or 12.

Q Could it have been five?

A Five? No, there were certainly more than that.

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Q Could it have been 15?

A Yes that is possible.

Q Did you talk to the experimental subjects on that day before the experiments began?

A I believe on that day we talked, primarily. Whether any experiments were done at all on that first day, whether any real experiments were done before the thing was stopped for the first time I don't remember. At any rate I talked to the experimental subjects and got to know them a little on the first day.

Q What did you talk about with the experimental subjects?

A It was quite new surroundings for me, of course. They were all professional criminals who were in custody.

Q How do you know that?

A They told me that gradually in the course of conversation. They didn't have complete confidence on the first day and told me all about their previous convictions. But after one inquired carefully one discovered sometime that they had been condemned for certain crimes, repeatedly convicted, and finally had been condemned to Sicherheitsverwahrung (protective custody).

Q For what reason did you talk to the experimental subjects on this day?

A It is quite natural when one begins to work with such a group then certain personal contact is necessary. We had to get to know each other. I talked to them their profession, if I may say so, and of course I was told then something about the experiments, what it was all about, what they themselves had to do to cooperate. So the cooperation would be possible as with

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the experimental subjects that I was used to.

Q Was the reason for this investigation to prepare the subjects of their activity or to check whether these people were actually volunteers?

A No, it was more to get to know the subjects personally. The situation was this, in the talk with the camp commandant on the basis of the agreement with Rascher, and his authorization from Himmler, a very definite agreement had been reached that these people were to be selected from the volunteers; a clear agreement had been reached on the conditions, about which there could be no doubts basically. When I met the subjects for the first time personally and talked to them about the principle of the experiments and their duties, and so forth, of course I also inquired why they had volunteered, not because of any distrust of the camp authorities, but just for that reason.

A I didn't only believe that, but they were. They told me so themselves.

Q How do you know that so definitely for each case?

A In the course of time, not on the first day but in the course of time I talked to all of them frequently in some detail, and gradually they told me about their previous convictions, and what other prisons and penitentiaries they had been in, before they came to the camp and they also told me the reasons why they had volunteered.

Q Do you mean to say that all the experimental subjects who were used for the high altitude experiments were volunteers?

A Yes.

Q Now before these subjects entered the chamber did you prepare them for what they had to do, and told them the

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significance of the whole thing?

A Yes, of course. First I explained the whole question to them in broad outline, so that they would know what it was about and what the purpose of the experiment was. In detail I told them specifically what they had to do in the experiments. There was the writing test, they had to write numbers from 1,000 backwards, then the cardinal point was that after the altitude sickness during the experiments as soon as they came to they had to pull the ripcord. We had a handle in the chamber connected to a bell. This was to represent pulling the rip cord of the parachute, and this had to be explained to them carefully, otherwise they wouldn't have understood it and wouldn't have reacted right.

Q. Now, before the experiments began, did you have an electro-cardiogram of each separate subject?

A. Yes and later again.

Q. Please explain that.

A. First Rascher had examined the people to see if they were suitably fitted for the experiments, so there would be no heart defects or anything like that. Then for an exact control, before the beginning of the experiments we took an electro-cardiogram of all the subjects and in almost all the experiments the electro-cardiograms were registered and at the end, when the experiments were finished, we took another electro-cardiogram of all the subjects in order to have material for, perhaps if there were no visible damage, there might still be some effects which could be determined only by such tests.

Q. Now, how long did these experiments of rescue from high altitude last approximately?

A. Well, they really began on about the 10th or 11th of March and they lasted until the 19th or 20th of May.

Q. Following that, you prepared the report which has been submitted by the prosecution?

A. Yes.

Q. In this report you have a sentence saying that during the experiments for rescue from high altitude there had been no deaths and that there had been no damage to health, is that correct?

A. Yes, that is correct that that sentence is in the report, and it is also true that there was no death or other damage.

Q. But here in the testimony of the witness Neff you heard that there were deaths?

A. Yes.

Q. What do you have to say about that?

A. In addition to our joint experiments for rescue from high altitude, Rascher had experiments of his own which he carried out. He did not tell me the exact problem; he merely said that he was carrying

out these experiments for Himmler and that they were to do with the explosive decompression sickness and electro-cardiogram. He had apparently carried out secret experiments for some time on this problem, but then in my presence he continued it with special subjects. In the course of these experiments at the end of April the first death occurred when I was present. He told me in the course of our conversations that he wanted to qualify as a lecturer on the basis of these experiments which were ordered by Himmler. He wanted to get Dr. Fahrenkamp into it but this was not done. Dr. Fahrenkamp did not work on this matter because the experiments were broken off.

Before the death, I had no reason to object to the experiments in any way since Rascher was using other subjects and had an assignment from Himmler for them separately. I had the assignment to carry out the experiments for rescue from high altitude and I, together with Rascher, carried it out.

Q. How many deaths were there when you were present?

A. There were three.

Q. But Neff spoke of five deaths at which you were present.

A. There could only have been three.

Q. Why could there only have been three?

A. Because I remember. There were deaths after all and they made a definite impression on me, I know it.

Q. Why did death in the low pressure chamber make such an impression on you?

A. In the innumerable low pressure chamber experiments not only made by us, but everywhere in Germany in other institutes, we never had any deaths at all and the point of view at that time was that any question of aviation medicine, which was necessary, could be solved without deaths.

Q. Now, how did it happen that you were present at these deaths, as you say these experiments did not belong to your series of experiments?

A. At the beginning of April or the middle of April Rascher told me for the first time that he was performing experiments with slow ascension and he had attempted to work with Kottenhoff but the work had been interrupted when the latter was sent away. I said that had nothing to do with our experiments and was quite unimportant and uninteresting from our point of view. He admitted that he said it was a specific question which especially interested him personally and which he had to work on. These experiments, which according to records here lasted eight to ten hours, I did not see. He probably always performed them on the days I was not there because these eight to ten hours would have interfered considerably with our experiments. He expanded these experiments and performed time reserve experiments at certain altitudes to test the adaptation which he had been testing before in the slow ascension experiments. This was an experiment where the subject remains at the same altitude in contrast to the falling or sinking experiments where the pressure is constantly increased, that is, when the altitude is decreased. As his intermediate reports show, he extended these to high altitude. The time reserve was studied either with or without oxygen. The suggestion for this in part came obviously from other work, such as Dr. Klisches.

I sometimes observed these experiments. He carried out these experiments correctly; he watched the subjects so that there was in itself no objection to these experiments. The only thing was that they interfered with our experiments from the point of view of time, but Rascher's unpunctuality was a much greater annoyance in this respect. According to the documents, as well as the witness Neff, Rascher apparently had deaths in these experiments. The first deaths were apparently unexpected. In these unexpected deaths the electro-cardiogram and the autopsy findings, together with his reports, apparently gave Himmler the idea that these experiments should be carried on further, to work with Fahrenkamp in addition, to extend them as far as possible scientifically. The fact that Himmler was covering them apparently induced

him in my presence to carry out experiments which were dangerous, and in which deaths occurred. The fact that I had been present several times at previous experiments brought about my presence at that fatal experiment, too.

Q. Was it not unusual to you that during an experimental series, which you and Rascher were to carry out together, Himmler suddenly gave Rascher orders for special experiments?

A. Yes, of course. I did not have any specific experience in this direction, but on principle it is nothing unusual if two people are working together on a certain job one or both of them receive additional assignment from his chief and carries out other work. In addition, Rascher was also carrying out work in Schongau at the same time, which was on behalf of Luftgau 7. I, myself, had work of my own in the DVL, which my associates were carrying on and which I inquired about when I happened to be in Berlin. That Himmler, as Reichsfuehrer SS and chief of the German Police and as Rascher's boss insofar as he was an SS member, had the right to give orders to his subordinates and to give them assignments and order them to carry out experiments on experimental subjects in a concentration camp no one could dispute.

Rascher's cancer work, which Neff mentioned here, in which he was gathering blood from cancer patients to test them, that was also going on at the same time. Later during the cold experiments that was something similar. If Himmler gave the order to re-warm by animal heat and Rascher conducted these experiments within the framework of the cold experiments, after Holzlochner had left, that was also possible in this case because no special equipment was needed for these cold experiments.

A In our experiments the execution of the experiments depended upon the presence of the low pressure chamber, and for this reason he carried out these experiments simultaneously, and in general behind my back.

Q Did Rascher otherwise in your experiments which you had carried out jointly with him show the tendency to give the experiments a wider scientific basis?

A Yes, that was definitely his tendency to expand the matter as much as possible and to burden our joint experiments with specific questions which were of no practical importance. He wanted to carry out examinations of the spinal fluid, for instance, but I succeeded in stopping all of these efforts. I always urged that the experiments be carried out as quickly as possible in the way necessary for the Luftwaffe, that is in the way necessary for rescuing fliers. That explains the fact that on page 2 of our joint report there is something said that Ruff mentioned yesterday, that the detailed clarification of scientific questions had to be dispensed with for the time being, because I always insisted that those had nothing to do with the subject; but it would have been possible in Dachau, that is proved by the chemical and clinical tests during the cold experiments.

Q Now, in your opinion, what is the distinction between your presence at the experiments for rescue from high altitude and your presence during Rascher's experiments where you happened to be present?

A In the experiments of rescue from high altitude it was not just my presence. I performed the experiments myself. That is, I myself called the experimental subject, or sometimes Rascher called them. Of course, then I explained to the people what they had to do, what

they had to write, what they had to pay especial attention to, and then when they registered the electrocardiogram that in order not to interfere with this they had to be still, couldn't move; and then when the experiment had started I directed the experiment myself, I watched the altitude of the mercury indicator, and the calculated speed of ascension and descension, which I checked with the stop watch. Of course, at the same time I observed the subject. In other words, the persons in the experiments. In Rascher's experiments which were at a certain altitude, that is, there was ascension to a certain altitude, and then they stayed at that altitude. I sometimes watched if I happened to be there, if I happened to be at the low pressure chamber, but otherwise he performed these experiments alone just as he did when I was not present. He even laid great stress on performing them alone. It is clear to me now that he did not want me to observe any special results, that is, apparently why he performed the other experiments in the evening or otherwise when I was away.

Q After the first death was there an autopsy?

A Yes, there was an autopsy.

Q Did you participate in it?

A No, I did not participate. I was present and I watched the autopsy.

Q Why did you watch the autopsy if it was not your experiment?

A Today, of course, that looks different than it did at the time. It was a matter of course for me then. Rascher was a colleague of mine. He had had a fatal accident in his experiments. He asked me to watch the autopsy, and, of course, I went. And I also had quite a

natural scientific interest in the cause of death, and in the findings, and I admit it frankly, although I am aware of the danger that someone will say I was interested in the death of the person too, but it happens in every hospital, all doctors watch the autopsies. If, for example, in the surgical ward, a patient died after an operation, then the chief physician, or if he didn't have time, then the senior physician, and the other doctors who had nothing to do specifically with the patient, watched the autopsy, and generally even x-ray doctors came over who didn't know the patient at all; and besides if I had not been present, that would be considered today an incomprehensible lack of interest in the death, if I had not accepted Rascher's invitation. If such a death happened in a centrifugal experiment in our institute, if such an accident had happened which was not in my field of work, I certainly would have gone to watch the autopsy. One must learn from the findings, that is one's duty as a doctor. One has to look at such things so that one can draw one's conclusions and be able to avoid later accidents.

Q Did you see any further autopsies of Rascher?

A No.

Q Why not?

A After this death there was a basic change in my attitude toward Rascher in the plan to break off the experiments, so that in the case of later deaths I was not present because of this attitude; and I do not believe he invited me to the autopsy and under the conditions in Dachau I could not go there on my own initiative.

Q Did you ask Rascher how this death came about, did you warn him before the death?

A Yes, I have already said I was present at the experiments just as I had sometimes been present at the other series of his experiments, just from curiosity, just as in our institute if there were centrifugal experiments in our institute, I sometimes watched them too. There was no reason for distrust but at that time I just watched the experiments out of curiosity; that was how it happened I was present by accident at the experiment, and I looked at the electrocardiogram of this subject. One can see from the electrocardiograph on the screen a little point of light which moves, and that is determined by the heart activity. When it seemed to me that it was getting dangerous, that the heart activity was getting less, I said to Rascher: "You had better stop now."

Q And what did Rascher do?

A Nothing, he didn't react to it. He stayed at that altitude and later death suddenly occurred.

Q When you observed the electrocardiogram was it quite clear to you that the person would die in the next second?

A No, of course not, first of all I had never even seen a death from high altitude. That was the first one I ever saw. I couldn't know that and in the second place this death certainly resulted from an air embolism and, therefore, suddenly, and in the third place the electrocardiogram change was dangerous. I myself would have stopped the experiment at this stage but he didn't and I only said that because I would have stopped the experiment that moment.

Q Did you speak to Rascher about this after the experiment?

A It was not possible in view of Rascher's position that I should object, but I told him such things should not happen.

Q And what else did you do?

A After this death I went to Berlin and I told Ruff about it. Ruff agreed with me that the death should not be allowed to occur in high altitude experiments and never had occurred before, but since Rascher carried out these experiments for Himmler on a man who was condemned to death, we saw no way to prevent Rascher after we gave the report officially. What Rascher said in general when objections were made, I mean he simply referred to the orders from Himmler and the fact that he was covered by them. To remove the chamber from Dachau against Himmler's and Rascher's will was quite impossible. To give this death as a reason for removing the chamber was still more impossible. In the first place, Himmler would not have re-acted. He would certainly not have given up the chamber. He might have started proceedings for treason or sabotage of an essential war experiment. In fact, I had reported this to Ruff against my signature in a concentration camp, and like every visitor to a concentration camp I had to sign a statement that everything I saw here and so forth in the camp would be kept secret. Besides, at the beginning of the experiments Rascher had received a special telegram from Himmler which ordered silence about these experiments. A specific obligation to secrecy was strengthened by this order from Himmler. Since I had reported that matter to Ruff against the obligation to secrecy I also had to be covered in this respect, and for this reason again we could not give the death as the reason

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for removing the chamber from Dachau, aside from the fact
it would not have had any success.

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A Therefore, after some consideration we decided that the only possibility was for Ruff to go to Milch or Hippke and ask to have the chamber removed, giving the excuse that it was needed at the front. On the other hand, I was to conclude our experiments quickly so that Himmler could be told that the experiments were finished and that we could prove this so that we could claim the right to remove the chamber from Dachau. Otherwise Himmler would doubtless have ordered that the experiments should be continued until the original goal had been reached, that is, the clarification of the question of rescue from high altitude, and he would doubtless have gone to Goering or even Hitler and have arranged to keep the chamber longer. He would have said that the use of this chamber at the front was unimportant compared to its use at Dachau in the experiment and would not have released the chamber.

If I myself had not gone back to Dachau, then Rascher would have carried out the experiments for rescue from high altitudes alone; and he would doubtless also have continued his own experiments. That was the reason why I reluctantly went back to Dachau.

Q Now, what was the purpose of your trip to Berlin?

A The purpose was this report to Ruff.

Q Was that the only purpose?

A Yes.

Q How did you explain this trip to Rascher?

A I told Rascher that I was going because of my wife's condition. My wife had had a child in March, and that was a good reason for my going to Berlin.

Q How long were you in Berlin?

A Only one or two days then I went back to Dachau.

Q Now, before you left did you make sure of whether Ruff had done anything in response to your report, whether he had done anything to get the chamber out of Dachau?

A Yes. Ruff tried to get Hippke but was not able to at that time, so that I really did not know what was going on and what would be accomplished.

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Q Did you notice anything special when you came back to Dachau?
Did you notice anything special about the chamber?

A Yes. When I came back, the barometer was broken, as Koff has already said; and I had to go right back to Berlin to have the barometer repaired.

Q How long did you stay in Berlin this time?

A As long as the repairing too-about two weeks.

Q Then during this time there were no experiments?

A No.

Q When did the experiments begin again?

A The beginning of May or the middle of May I went back with the repaired apparatus; and then we concluded the experiments as quickly as possible.

Q Did you abbreviate the program which you had laid out or did you change it in any way; or did you keep it the way it was?

A No, we shortened it. We had fewer experiments at the various altitudes in order to conclude the whole thing as quickly as possible but in such a way that it was actually completed with adequate results.

Q When was the second death where you were present?

A That was soon, a few days after my return to Dachau.

Q Did the death of the experimental subject occur in a way similar to the first case?

A In general, yes. I don't know exactly what happened. As far as I recall, it was an experiment at a rather high altitude, and death occurred quicker, more suddenly.

Q And when was the third death where you were present?

A That was right after that, on the next day, or the second day.

Q After these deaths, did you never have any argument with Rascher about his experiments and the way in which he performed them?

A Yes, we had some minor arguments resulting from my objections, which he always refused to accept; but after the third death when I started to object again, he said first that Himmler had ordered it and I wasn't to interfere. When I later brought the subject up once more,

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he lost his patience, and we got rather excited. I asked him why he was carrying out these experiments; what he wanted to achieve. He said he was checking the problem of caisson diseases, bends, aero-embolism, that he had to clarify it because Himmler had ordered it. He was the first man doing an autopsy under water to prove these air bubbles in the blood. Also the question of the electrocardiogram in bends and altitude sickness had to be clarified as Himmler had given him a special assignment for it, and Fahrenkamp was to do this work together with him. He wanted to qualify as a professor with Schittenhelm with this work.

Then he brought out a letter and read to me that the experiments were to be continued; that Prof. Fahrenkamp was to be called in; and that people condemned to death who survived the experiments would, of course, be pardoned. Then he held the letter out to me and asked me whether I could read Himmler's signature and whether I wouldn't be satisfied with that.

Q Was this the letter from the Prosecution Document Book 11, 1971b-PS, Exhibit 51?

A Yes, 1971-(b)-PS, as Exhibit 51.

THE PRESIDENT: Counsel, can you give me the page of the English Document Book on which that exhibit appears?

DR. VORWERK: Page 64.

Q And what does this letter indicate?

A It showed that Himmler had actually ordered these experiments that he had complete, official coverage; that the subjects were to be pardoned. It says so in the letter, "Of course the person condemned to death shall be pardoned to concentration camp for life."

Then it says that Fahrenkamp is to be consulted. On the next page it says that this order from Himmler goes to the Chief of the Security Police and the SD and to SS-Brigadefuehrer Gluecks, with a copy for their information.

Q Did Rascher give you any further explanation of this letter?

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A Since I had been prevented from doing anything by this letter, then I calmly asked him what idea he had of these experiments; what he wanted to do; what he wanted to achieve. He said that Dr. Fahrenkamp would help him and that he would have electrocardiograms for heart failure from the most various reasons and would compare them with electrocardiograms in the case of death at high altitude, with the change in severe altitude sickness, with later recovery, and also in the hospital in Munich he had taken electrocardiograms in cases of heart failure. In Dachau he said he had also registered electrocardiograms when there were executions by shooting. If he had really compiled all this material and had evaluated this material together with heart specialists, it was, of course, quite valuable.

Q. Are you of the opinion that the experiments which Rascher performed were performed in order that he might qualify as a professor?

A. Whether that was the main purpose or not I cannot say. That certainly played a role in it but they certainly were ordered by Himmler.

Q. Now, are you of the opinion that these experiments were ordered by Himmler at his suggestion or that Himmler ordered them before he went to Himmler?

A. That is difficult to say. It probably developed gradually on the basis of his reports. The reports are written in such a way that he presents the results as very important. Thereupon Himmler ordered that the experiments be continued.

Q. But, it is no doubt a fact that Rascher at that time had a great deal of material in order to be able to qualify as a professor?

A. Yes, he doubtless had.

Q. Was Fahrerkamp called upon to corroborate in these experiments?

A. No. He kept saying that Fahrerkamp was to come, that he was going to work with him, and evaluate the electrocardiograms. But, at least during my time, he did not come to Dachau. In any case I never saw him. In the last few days a big electrocardiograph came, a big Siemens machine, such as we had in our institute. I knew it and I told Rascher that he wouldn't like it because this Siemens machine is very sensitive to all electrical disturbances. One can work only in areas free of any interferences.

Q. You said Rascher showed you the letter in which Himmler ordered the continuation of the experiments and

the pardoning of the experimental subjects?

A. Yes.

Q. Did he also show you a teletype saying that pardoning would not effect Russians and Poles. This is in Document Book II of the Prosecution, page 69 in the German, document 1971-G-PS, Exhibit 53, page 66 in the English. Page 66 in the English Document Book.

A. No he did not show me that. He could not show me that. It is dated 21 October 1942, a time when the high altitude experiments had long been concluded. It is introduced into the Document Book at this point because it refers to this letter of 13 April. In response to this teletype, the affidavit which was given to me for signature contained a sentence which was wrong - that the experiments had been performed primarily on Russian or Poles. But since I never saw a Russian or Pole at the experimental station I had to cross out this statement and the interrogator said that didn't make any difference, that there were documents to prove this fact. It seems to me that it is proven that no Russians or Poles were used in the high altitude experiments, but only in October 1942 during the cold experiments after the Holzlochner period.

Q. Here when the witness Neff was examined you heard that he spoke of an autopsy in the low pressure chamber. Do you remember that?

A. Yes, I remember that.

Q. Now what about this autopsy in the low pressure chamber?

A. I cannot remember this at all. I cannot say whether or in what way it took place.

Q. When did you hear of it for the first time? When did you hear for the first time that this incident was

supposed to have happened?

A. From Neff here. Neff said that I had altitude sickness and was unconscious in this experiment and I recovered somewhat when the altitude was reduced and made signs to Rascher that he was to stop the experiment and that I wanted to get out of the chamber. But, Rascher ordered me sent to higher altitude without paying any attention to my signs. And, I became sick again and unconscious again. He also said that I did not have any part in the autopsy in any way because of the severe altitude sickness which was undoubtedly combined with decompression disease. I was, no doubt, unconscious. In other experiments at Dachau I frequently had often altitude sickness. I cannot say anything about an individual experiment.

Q. Neff also reported here, as you recall, an incident with a tailor. Do you remember this incident?

A. Yes. I remember it. Neff told of two cases when I was supposed to have intervened. I can remember only one with this tailor which was about the middle of April. In any case, it was after Sievers' visit, which was in the first days of April. If it had been before this visit Rascher certainly would have told Sievers all about it as he told Professor Waest later. It was about as follows: Neff met me in the hall, or in the office, and said to me - he said something wrong was going to happen in the chamber. Rascher had ordered a prisoner to be brought as an experimental subject. This man was not a volunteer and was not condemned to death and was being brought by an SS man, against his will. He knew it himself because he knew the man. He was a tailor who was working in the workshop. He told me to go and see Rascher and try to

prevent it. I went to see Rascher immediately and asked him what was going on and asked him who this subject was and told him Neff knew the man who was a tailor and knew something was wrong. Rascher questioned the SS man who had brought the tailor and it was actually discovered that the tailor was neither condemned to death nor had he volunteered for any experiment.

Q Now, didn't you become suspicious?

A Well, Rascher went away to clear up the matter with the SS man, whether he was supposed to bring this man up, etc. He discovered the SS man had taken the matter in his own hands and, first of all, he sent the tailor back to his work shop. When the SS man threatened the tailor again Rascher said he had reported the incident, and soon after that the Camp Commandant came and Rascher told him about the whole incident indignantly. He demanded the SS man be punished, and I can recall that afterwards he talked to me about this SS man and said that those were perhaps not the worst ones but such a man could not be allowed to stay in the concentration camp service. He did consult the Camp Commandant and did probably dispense with the charges against him and finally got this man sent to the Eastern front in a penal company. That he reported to the Camp Commandant and this immediately happened convinced me that things in the concentration camp were correct.

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Such excesses of individuals which could happen were immediately settled and punished. After this incident Rascher made me give my word of honor that I would not say anything about the whole matter. I was obligated to secrecy about the experiments and what I saw in the concentration camp but for this thing he felt certain personal responsibility and such an incident might start rumors and put the concentration camp in a bad light. Since this matter was settled immediately quite officially by Rascher I gave him this promise. Later on we went to East Prussia when we met Professor Wuest on the train. He told Professor Wuest of this incident with all details. He expressed his indignation and he spoke to Wuest for a long time whether immediate transfer to the front would be enough punishment and Professor Wuest assured him that he had acted correctly.

THE PRESIDENT: Counsel, the Tribunal will now be in recess until 1:30.

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 1 May 1947.)

THE MARSHAL: The Tribunal is again in session.
HANS ROMBERG - Resumed

DIRECT EXAMINATION (Continued)

BY DR. VORWERK (Counsel for the Defendant Romberg):

Q. Mr. Romberg, before the noon recess you were describing to the Tribunal the incident with the tailor. Do you know whether something actually happened in that case to the effect that the SS man who had brought the tailor along was held to account?

A. Yes, at any rate he was removed from the camp. Rascher told me that he was transferred, and Neff also stated here that he was removed.

Q. Neff went on to tell about a second incident where as a result of your intervention an experimental subject was not admitted to the experiment. Do you remember that second incident?

A. No, I do not remember that.

Q. What was Neff's position during these experiments and what was his attitude towards them?

A. Neff did not play any essential part for me during these experiments and he did not come at all into the foreground. He was the block oldest of our experimental subjects who were living at the block and as a former nurse of that station he was to assist us whenever necessary. He had certain qualifications in his capacity as a male nurse that Neff apparently played a certain double roll during these experiments only became clear to me here. At that time I had the absolute impression that Neff was feeling as a prisoner and had the same attitude towards Rascher's experiments as I. This is the only way one can explain that I spoke to

Neff about my attitude towards Rascher's experiments and that I told him that I would endeavor to get the chamber away from there through the help of Hilch. If I had considered Neff as a Kape, as a man who was against the inmates, I would never have spoken to Neff about Rascher and his experiments in a rejecting and critical manner. I cannot imagine the fact that Neff knew about Rascher's experiments that had a fateful result, or that he had any knowledge of them. I can only explain that if he had known about them Rascher would have told him to keep everything secret. Naturally, he must have kept strictly to that directive since any betrayal of Rascher would have had the most serious consequences for Neff.

In addition, Neff had been promised release the same way as all other experimental subjects and was actually released on March 1944. Any such promise, of course, had a fateful importance for Neff and that way perhaps explains his peculiar behavior. In spite of that, there can be no doubt that Neff with his innermost feeling was on the side of the inmates. This is confirmed by the fact that after the war he went back to Dachau and once more went into the ranks of the inmates, and also that he handed to the American Troops all incriminating material about the SS there and told about the invalid action. Furthermore, this shows that he found his place within the ranks of the victims of Fascism. Many of his exaggerated and incorrect testimonies can be explained by the testimonies which may incriminate himself too.

Q. What are the testimonies that you consider to be exaggerations, or that you consider to be false testimonies, and to what extent do you believe that those testimonies were incorrect?

A. I can only explain that in a few individual cases. For instance, Hoff is always speaking of ten women who were used during these experiments. In the documents, however, only four are being mentioned.

R. HARDY: May it please Your Honor, whenever the defendant or defense counsel are referring to statements of the witness Neff, would they kindly refer to the page number of the record?

BY DR. VONDERK:

Q We're here concerned for example with experiments on Russian officers - experiments on two officers, if you remember, Mr. Rosenberg. These are testimonies which can be found on page 675 and 676 of the German transcript. What is it you can say about these experiments and Neff's explanation that he is giving in connection with that experiment?

A I'm not an expert in cold questions, but I think that the description of this experiment is largely exaggerated. I think it is impossible that it could have been carried out in that manner. I have looked through the cold questions as they become apparent, for instance, the Document 428, Exhibit 91, on page 4 of that report, and I also looked at the Document No. 401, Exhibit 93, which is the report on the cold conference held at Nurnberg, on page 43 of the report. According to these descriptions of the other cold experiments, the rigor begins to appear after a very short time, after approximately ten to twenty minutes, and makes any movement or speech on the part of the experimental subject impossible. After, at the latest one hour, unconsciousness appears. Neff, on the other hand, states here that these two Russian officers, even after a period of three hours, were speaking to one another and were in possession of their full consciousness and then he said that they even shook hands. I can not imagine that this period of time could have elapsed. The same becomes apparent from the American work on cold questions where it is stated that, in case of sea rescue, the rigor occurs after a very short time, approximately ten minutes, and this rigor would make any entry into the rubber rescue boat impossible.

Q Neff, on page 694 of the German transcript, goes on to say that

Rascher was producing cyanide tablets which were to be swallowed by the inmates. Some of the people had died under severe pain. At the end he says "Among our comrades we said, by way of figure of speech, and I quote, they are producing a drug which would kill us very quickly as soon as something happens."

A Well, he is contradicting himself here by saying that the inmates lost their life under severe pain. Then he goes on to say they found a drug by which they can die without pain. But, it is well known that potassium cyanide kills without any pain.

Q I have just been informed, Mr. President, that, through error, the release of Neff was stated as being in the year of 1945 instead of the year 1942. It should be 1942.

Regarding the voluntary aspect of the experimental subjects, Neff, on page 656 and 657 of the German transcript, as well as on Page 711 and 712 of the German transcript, states as follows, and I quote:

"A volunteering for these experiments was made possible when the person concerned turned to Rascher on his own initiative. That was not difficult because Rascher was around the camp a lot. Naturally, every prisoner who is hungry and is working on a difficult detail, knowing that at the experimental station he would receive better nourishment, will try to get there. In addition, the Reichsfuehrer SS promised the inmates that they would be released."

What can you say about this testimony of Neff's?

A The first testimony, where he says that of two hundred experimental subjects only ten were voluntary, and this latter testimony that you mention can not be brought into conformity, and, therefore, contradict one another. In addition, I think that the number of two hundred experimental subjects is largely exaggerated.

Q Let us now revert to the experimental subjects. What badges did the experimental subjects wear who were at disposal for the experiments for rescue from high altitudes?

A They had badges as they were worn by professional criminals.

Q Were they green only, or were other badges among them?

A No, all these badges were green. All, with the exception of Neff, who was wearing a red badge, but he was not a real experimental subject.

Q Did Neff participate in any experiments as an experimental subject?

A Yes, he did, and he offered himself to them.

Q Do you remember the badges which were worn by the experimental subjects who were used for Rascher's experiments? What kind of badges were they? Were they criminals? Were they political prisoners? What can you say about that?

A As far as I saw the experimental subjects, and you must keep in mind that I only saw a small part of them, they wore green badges and were thereby designated as criminals. There were, however, a few red ones among them who had been sentenced because of high treason or such similar offenses.

Q The witness Neff, who testified here, was also heard in the Milch trial which was running simultaneously to this one. Do you know that?

A Yes.

Q The witness says here, on page 973 to 974 of this record, and I quote:

"It was my impression that Dr. Romberg was not in complete accordance with the experiments Dr. Rascher was performing, and intended to get the chambers away from the camp as quickly as possible. Rascher, on the other hand, was attempting the contrary. He wanted to keep the chambers as long as possible in the concentration camp. To what extent Dr. Romberg succeeded in getting the chambers away earlier, or rather, to what extent Rascher succeeded in keeping them there for a longer period of time, I don't know."

Did you speak to Neff at that time to the effect that it was your wish to remove the chambers from the camp as quickly as possible?

A Well, he is saying that. I discussed this matter with him at that time for the reason I stated before; namely, that I considered Neff as Rascher's opponent. Rascher, of course, wasn't allowed to learn about that, and it is for this reason that Neff knows that I endeavored to get the chamber away.

Q Well, how were these experiments finally stopped?

... The basis for this stoppage was the agreement reached between Hippke, Ruff and myself. We intended to pretend there was an urgent reason for the chamber being removed, and thereby stop the experiments. It was difficult, however, to execute that plan. Neither towards Himmler nor towards Rascher could we cite the reason as to the fatalities caused by Rascher. The only thing we could say was that these chambers were used for air accidents. This, of course, wasn't a very strong reason. Rascher when I returned from Berlin and made the first indications that the chambers was to be used and when I told him that we would have to finish the experiments very quickly, Rascher didn't react to that at all, but told me that he would intervene with Himmler and Milch and get the permission for a longer usage of the chamber, something which he in effect achieved. However, when Milch's order to that effect came the chamber had already been removed. The basic prerequisite for getting the chamber away was to bring the experiments for rescue from high altitude to a quick conclusion and in addition to finish the film which was to be taken about these experiments, as a result of Himmler's order. Only by fulfilling these two demands which were made by Himmler was he in a position to influence Rascher to agree to the temporary removal of that chamber. I explained to him that there would be little sense in getting a permission for the chamber to be retained for a further period of two or three weeks and told him that I was sure that one needed the chamber at the front very quickly. I suggested to him that it would be a much better way to get this chamber at a later date to Dachau through other means for a longer period of time. I told him that he could then carry out the work which he was ordered to do by

Himmler. I said that he also could participate once more in the experiments for the purpose of saving people from high altitudes. Only by using this tactic was it possible that Rascher didn't oppose the removal of the chamber and that he didn't succeed to get an order to the contrary from Himmler or Milch. It can hardly be conceived that he would have succeeded in getting such an order through. He actually did that, and one can see it by looking at the letter from Milch to Wolff, this is Document NO261, Exhibit 63, in Document Book II dated 4 June 1942. In conclusion I should like to state once more that at no time would it have been possible for anyone, not even Milch or Hippke to remove the chamber against Himmler or Rascher's will from the concentration camp.

Q. When was the chamber removed from the camp?

A. That was on the 19th or 20th of May. At any rate before the order Hippke's or Milch's dated the 20th of May, Document 343PS, Exhibit 62, could have achieved any effect. That was on the 19th or 20th of May, and not at the beginning or end of June as Hoff said here or in August as the Prosecutor says.

Q. How is it that you know exactly that the chamber left the camp on the 19th or 20th of May?

A. Fortunately I have in my possession a few firm dates about this experimental series which do give me some hints. At first it was the birth of my child, date 19th of March at which time I went to Berlin. Since the birth was originally expected on the 9th of March I know I was then in Berlin. As I said before I returned to Berlin on the 19th or 20th of March and then I also know that I went to Berlin for Easter, and that I stayed there a few days after Easter. I know that I was in Berlin on the 1st and

2nd of May, and I also know that I stayed in Berlin for sometime because then the barometer was repaired. I also know that Whitsun occurred on the 24th of May and I know that in the week before Witsun I had already left. That was on a Tuesday or Wednesday. I spent a few days at the DVL, and I know that even after Witsun I didn't return to Dachau. For that reason I know exactly that the chamber was removed on the 19th or 20th in the week before Whitsun.

Q. Dr. Ruff, who was here yesterday or the day before as a witness, has made statements to the effect that a detailing to a branch of the DVL at Dachau was not possible; what is your attitude to that question; will you explain that as briefly as possible?

A. Dr. Ruff has said that in essence. When the experiments start Rascher was still detailed to the institute of Woltz, which was a military agency of the Medical Inspectorate. Later Rascher suggests, or we know from the letter of Mrs. Rascher, Document NO 264, Exhibit 60, that to detail him to the Branch at Dachau of the DVL. Wolff writes the same thing in his letter to Hippke. This can be explained since Rascher nor any other SS agency were clear about the organization of the DVL. We after all were no military organization, and Rascher neither during the experiments nor later when he was in Berlin for the purpose of working out the report was detailed to the DVL. Therefore, it was impossible for him to be detailed to any branch which after all was non-existent. If in effect any such details had been made objection would have been raised in the Personnel Department and we would have found out about it. At any rate I didn't personally hear or see of any such details. I really didn't know when he left the Woltz Institute. I only know that the ack-ack Artillery School at Schongau had

been stated in his orders because he often went to this place by car and on that occasion he told me that he would have to be officially detailed there since otherwise his car would have to be stopped. For the purpose of his Dachau journeys he had received special permission by the Reichsfuehrer SS. The expression DVL "branch" therefore is wrong and any military transfer there is impossible.

Q. Has it often happened that air force officers had been detailed to Adlershof to the DVL there?

A. Yes, we had Luftwaffe officers working with us. They were detailed to us by the Medical Inspectorate who knew the situation and who didn't detail them to us directly, but to the air school at Adlershof, or to some air force institution there for the purpose of actually working with us.

Q. Therefore, you are of the opinion that any detailing of air force physicians was impossible to your institute because your institute wasn't a military one, do I understand you correctly?

A. Yes.

Q. When did you arrive in Berlin after the conclusion of the experiment?

A. I already said on the 20th of May. I am sure that on that date I was again in Berlin. A few weeks elapsed, perhaps two or three weeks until Rascher arrived in Berlin in order to work out the final report about the experiments. He had not been detailed to us, even for that period of time. He merely received guest travel orders which authorized him to enter the terrain of the DVL.

Q. How was this chamber sent — by rail or by car to Adlershof?

A. As Ruff said yesterday, it came back by rail because we did not have enough diesel oil for that purpose.

Q. How was the research report compiled, the report on the research of saving people from high altitude?

A. Rascher, as I said, came to Berlin in the beginning of June and together we started writing the report on the basis of my book and that is the report which is available here. Rascher insisted on pointing out the necessity for a continuation and extension of the experiments. I had no objection to that because I personally intended to continue these experiments too. In particular, to find out what the effects of cold were in the case of a parachute descent. Of course, our opinion as to the experiments differed. Rascher intended to continue the experiments in Dachau on inmates, but I intended to carry them on at my institute, DVL, but I did not speak about that.

When at the end of the report I added the sentence that no cases of death had occurred in these experiments, Rascher had no objection at all. This is a clear proof that Rascher considered the experiments, which he performed by order of Himmler, as his personal work and property. These experiments had nothing to do with the experiments conducted for the purpose of rescuing people from high altitude. When taking into consideration Rascher's personality, there can be no doubt that Rascher would have had no inhibitions to introducing a report about death cases in a top secret document if such cases had occurred in the latter report. Regarding the cold experiments, which Rascher wrote together with Holzlochner and Fink, there were many reports about cases of death.

In addition, I would never have been irresponsible enough to introduce a research report, which was to be the rescue basis for our future flights and experiments and which was to influence the air-force, in which I concealed such a decisive point as this would have had the most serious consequences for the future. It is really not necessary

to speak about it; it is just out of the question. Ruff never would have countersigned any such report. At that time there was really no reason to keep quiet about any cases of death, because no one really would have held me to account for causing any cases of death.

Q. The witness, Neff, has testified here that you yourself had served as an experimental subject during these experiments. Up to what altitude did you ascend?

A. I participated in a number of experiments. At one time I was the accompanying physician in the experiments and went up to 12,000 to 13,000 meters and then I participated in a number of self experiments, which have been discussed here. In addition there was explosive decompression experiments of a pursuit descent at 19 kilometers without a supply of oxygen.

Q. In July of 1942a report was made to Himmler, together with Rascher; how did this report come about and what happened there?

A. In July -I have forgotten the exact date -- Rascher suddenly appeared in Berlin. He telephoned me at the D.V.L. and asked me to meet him. I left Adlershof and met him in Berlin. He told me that both of us had been ordered to go to the Fuehrer's headquarters to report and we both went to the Reichsfuehrer SS office in Berlin. There they already had our train tickets ready for us. Then we heard the film about the experiments, went to my department and I telephoned Ruff. I told him about the matter. Then, I had to change, pack, and we left the same evening. We had a special train with sleepers on the train. Rascher met Professor Wuest, who also was going to the Headquarters on this journey and he told him once more about the notorious reports about the taylor.

Q. When did you arrive at the Headquarters?

A. The next morning; we went by car to Himmler's special train, which had not yet arrived, but which was due to arrive that evening. He arrived late that night and he heartily greeted Rascher. On this occasion, Rascher introduced me to Himmler. We went to a conference

room and Himmler asked us to report to him about the high altitude experiments. We did that by reading to him the conclusions we had arrived at, as they can be found in the report here. Himmler was rather satisfied and said we should report to the Reich Marshal too. He said that he had been with Goering for one week and they had reached a good understanding. He then pointed to the gold flying badge with diamonds which he had just been given by Goering. I had noticed that badge before and had silently thought that this highest civilian decoration, which Himmler was wearing and which up to that time was only used in the case of being committed during very dangerous test flights, was possibly the reward given to Himmler for having forgone his original wish to getting his own airforce with the SS, which was his wish-dream and that Rascher also mentioned that to me. After the high altitude experiments, Himmler started to speak about the cold experiments and gave the orders to prepare them.

Q. Did Himmler say anything further about the cold experiments?

A. Yes, he mainly emphasized that these experiments were of great importance for the army, navy and airforce. He went on to develop a number of tests about these experiments and their execution. For instance, he gave the order to Rascher that he should go to the rescue stations for people who were shipwrecked at the North Sea and find out how the community population were reviving their shipwrecked people. He went on to say that the population had found out very good and well proven means to revive people, like with herbs, tea, coffee or things like that and at any rate one must take the experiences gained by the population into consideration. He said he could well imagine that a fishwoman could well take her half frozen husband into her bed and revive him in that manner and everyone said that animal warmth had a different effect than artificial warmth. He went on to say that Rascher should have experiments to that effect and he would have to take into consideration the popular means used by the population.

Q. What was your attitude toward these statements made by Himmler?

A. Prompted by a sober and materialistic attitude, I did not think very much of these mystic methods and therefore raised an objection against that sort of experiment. I said that the main consideration was how to rearm people, whether to rearm them quickly or slowly and if you experiment around too long you will lose lives. There was a painful silence and after that I noticed that this was not the place for any contradiction.

Q. Was Professor Wuest present during that conversation?

A. Yes, he had come along with Himmler and he was present there.

Q. Did anyone object to your objection?

A. No, certainly not with words, but the silence which occurred meant much more than words could have meant. Later Rascher gave me a severe reprimand and he asked me if I was entirely mad. He thought I was made to contradict the "Reichs Heini" as he expressed himself in that manner.

Q. Did Wuest's remarks to Sievers refer to that situation about which Sievers has testified here?

A. Yes, it can only be in reference to that situation.

Q. Sievers says upon pages 58 to 69 of the German transcript, and I quote: "Wuest once told me about a conference which took place at the field headquarters of Himmler in the presence of Romberg and Rascher. In that connection he said the young man had come to his attention, although he had forgotten his name. Romberg not only opposed Himmler, but beyond that made long statements. This caused an embarrassing silence among the people present." Is that the incident?

A. Yes, I am sure it must have been that.

Q Did Himmler say anything else during that conference?

A After this embarrassing silence was over, Himmler spoke about the demands that that total war effort made on us and he said that it wasn't asking too much to use concentration camp inmates for these experiments, who were not helping at the front. This is the way these people could rehabilitate themselves, people condemned to death could thereby be pardoned, and they could be given an opportunity to fight at the front. He further said that whoever didn't understand that could not have understood that in this war it was a matter of life or death for Germany. Then he went on to speak about the losses in the East and particularly the losses of the SS and how his heart was bleeding every time he heard that another thousand of his wonderful boys had died.

Q What impression did these statements make on you?

A Well these were words that actually made sense considering this serious situation at that time. However, I was firmly decided never again to cooperate with Rascher.

Q And what happened afterwards, was the film shown?

A Oh, yes, afterwards we went into a room and there the film about the experiments was shown. Himmler was very satisfied with the film and the experiments and he thought that those experiments were of extreme importance for the Luftwaffe and that they would save the lives of many a pilot. Afterwards we saw it in the news reel and in the Russian military film.

Q What was your impression about the entire conference you had with Himmler?

A Well, at that time I did have a very strong impression about this conference. These serious conditions,

I heard about the losses in the East and about the total war effort were in such strong contradiction to what I had read in the press, that I would perhaps even have participated in the cold experiments as they were performed by Rascher and the carelessness he had shown toward human life. For that reason, when Himmler asked me to participate in the cold experiments I tried to get away from that duty and I succeeded in doing so.

Q Therefore, although you were selected for these experiments you refused to take part, is that right?

A Yes.

Q When did Rascher first plan to carry out the cold experiments, so far as you know?

A During the high altitude experiments in Dachau he collected literature on the subject, and no doubt had it planned, and whether it was Himmler or Rascher I don't know. He also showed me the work by Smith and Fay about the treatment of cancer with cold and he asked me to work on these planned experiments with him, but I always carefully tried to get out of it. When he was in Berlin working on the report of the DVL he got to know my work and I was able completely to convince him I was not the right man for these experiments and that it was too far away from my field of interest and my field of work and Rascher stopped trying to persuade me to work on the cold experiments. I was, therefore, unpleasantly surprised when Himmler suddenly personally gave me the assignment to carry out the experiments with Rascher. When he gave me the assignment I tried to get out of it by saying I was already over-worked at the DVL. He immediately offered me assistance to get free from the DVL and I gave up objecting. I thought it

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would be possible to get free by myself and I decided to disappear inconspicuously just as in the high altitude experiments and I succeeded in doing so. The next time I saw Rascher at the aviation ministry when the film was shown, I, of course, did not bring up the subject of the cold experiments, and he himself did not mention it either. I was all the more astonished then when Rascher in October appeared in Nurnberg with Holzlochner and they had already completed the experiments.

Q. Did you ever ask Rascher whether the experimental subjects were pardoned or released, the people who had participated in the high altitude experiments?

A. Once when we visited Himmler, Himmler said that the people would be released and when I met Rascher in Nurnberg at the cold meeting, I asked him and he said that they had been released.

Q. You were just speaking of a film shown in the Reich Aviation Ministry, and you no doubt wrote a brief report on it. That is document book No. 2 of the Prosecution, NO 224, Exhibit 76; when was this film shown?

A. I know the date only from this report which I wrote and which is in the document book. I know from that it was on the 11th of September. I was on a trip at that time. I was on leave and the invitation or the order to attend this showing of the film was sent after me. I went to the Reich Aviation Ministry on that date and I met Rascher there. The rest of the meeting is described better in this file note than I can reproduce it from memory. After the unsuccessful attempt to show it, Milch had failed to turn up and Rascher refused to tell me about those experiments without the presence of Milch. This had annoyed the doctors who were interested. Rascher immediately tele-

phoned Mr. Sievers and told him about the failure of the showing very indignantly, because his vanity was hurt. Sievers, who was just about to go on a trip, asked both of us to come to the railroad station and when we met him there he tried to calm Rascher down and thought that nothing could be achieved with excitement. He asked me to write a brief note about what had happened that morning and to send it to him. He asked about the film and when we told him we had left the film in the Aviation Ministry he advised us to go get the film because of the obligation to secrecy, but I was not able to do so until the next day.

Q. Did you hear anything more about the film later?

A. No, I never heard anything more about it.

Q. In Prosecution Document Book No. 2 there are a number of pictures. Did you take these pictures?

A. No, I did not take these pictures. I can say the following about these pictures. When these pictures were shown to me during an interrogation, I was told they came from a motion picture film and the prosecution said the same thing here. I thought that meant the film which I knew the motion picture of the experiments when I was present, but when I looked at the pictures I was immediately able to see that four of them at the most could have come from that motion picture. I assumed that Rascher might have taken another film behind my back. In the meantime I have realized, having looked at the pictures closely, that not a single one of them comes from that motion picture. I know that because in the film which was taken in the experiments there was a clock in the background and instruments in the foreground. That was necessary in order to be able to use the film later. It was possible only at the time

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and altitude were always registered on the film. Also
Rescher had put mounter suits on the experimental subjects
during the picture.

Q. In these pictures which are in Document Book II are there no instruments and no clock?

A. No, I've looked at them carefully. That could not be overlooked. That was a big clock with a big second-hand which was beside the head of the subject.

Q. That is proof to you that these pictures do not come from the film?

A. That they do not come from the film, yes. The witness Neff, who was probably present when these photographs were taken, immediately realized the difference when the pictures were shown to him here. He says on Page 661 of the German transcript, I quote: "When the film was taken the prisoners were given a civilian suit and it could not be seen that they were prisoners. These are photographs; and I know that when prisoners were photographed, they were given a fairly clean suit with no insignia. That is why one could not see on the photographs or in the film who these people were or what insignia they wore."

MR. HARDY: May it please your Honor, I wish to clarify for the record that it is not known to me that the prosecution offered these pictures in Document Book II as extracts from the film that was purported to have been shown at the RLM but merely as photographs which were found among the personal effects of Dr. Sigmund Rascher in his home in Munich; and I want it to be clear that the film that was shown at the Ministry is not in the hands of the prosecution. Had said film been in the hands of the prosecution, it certainly would have been shown here during our case in chief; and we still are in search of such films.

DR. VORWERK: Mr. President, I should like to have the explanation of the prosecution that the pictures in Document Book II are not submitted as having been taken during the experiments for rescue from high altitude. If I understood the prosecutor correctly, that is the explanation he just made.

MR. HARDY: Your Honor, the prosecution does not state that.

these pictures were not taken during the course of those experiments. I am merely trying to clarify it that these photographs which have been offered in evidence and are contained in Document Book II are not extracts of the film, that is, as far as we know. It may well be that the same type pictures appear on the film; but the prosecution has not seen the film that was shown at the RLM and does not have the film that was shown at all. The first four pictures in Document Book II have been properly identified by no less than defendant Rosenberg himself; and the remainder of the pictures have been identified by the witness Neff when he was here on the witness stand. We contend that these are pictures of the experiments at Dachau.

DR. VERMERK: I ask that the transcript show that these pictures do not come from the film which was taken of the experiments for rescue from high altitude.

THE PRESIDENT: The record will show the statement of counsel for the prosecution. That is as far as the Tribunal will go in the matter; and counsel may proceed with the examination of the witness.

THE WITNESS: May I say something else about these pictures?

BY DR. VERMERK:

Q. Please do.

A. I said at the beginning that when I was shown these pictures I was told that they came from a motion picture film; and the prosecution said the same thing here. I thought that might mean a Leica film, for example, not necessarily a motion picture. Only when the pictures were shown to me did I think that they meant that it actually came from a motion picture and thought that it might have come from this motion picture of the experiments. Since I did not know these photographs but only knew the motion picture, I assumed in the beginning that they were the same thing; but because the instruments are lacking and because of the testimony of Neff, it is clearly proved that not a single one of these pictures comes from the motion picture but from a private film in the possession of

Rascher, a Leica film, photographs which he probably took for his private work or for his work to qualify as a professor.

Q. When was the Cold meeting in Nurnberg?

A. That was in October.

Q. How did it come about that you participated? Did you know from the lecture which you heard that there had been deaths during the cold experiments?

A. First of all my participation was a matter of course because it was a meeting of aviation medicine, of aviation doctors. It was just coincidence what it was a Cold meeting. I participated in almost all such meetings; and, besides, I was interested in the cold problem since I was at the time planning to carry out cold experiments with the low pressure chamber, experiments which were later carried out.

As for this second question, whether I knew that any deaths had occurred, one must make a strict distinction between my personal judgment and that which was clear to the general public. Besides, one must not over-estimate the attention attracted by such a meeting. I did not approve of Rascher and his experiments personally. I had broken off the low pressure experiments for that reason and had refused to participate in the cold experiments as Himmler had wished.

If now in Nurnberg Holzlochner spoke of observations of cold persons and said that he had collaborated with Dr. Rascher and Dr. Finke, if he spoke of observations on dead persons, I personally, since I was prejudiced against Rascher, almost automatically assumed that this referred to the experiments, especially since after Holzlochner's lecture Rascher spoke in a bad external form and said that Himmler had taken the responsibility for this and ordered strict secrecy. But in his lecture Holzlochner had spoken of the experience of rescue from sea, animal experiments, human experiments, and had confused them in such a way that the listener who was not prejudiced would have assumed that the results were experience from cases of rescue at sea. This is especially true of people who knew how

extensive this sea rescue service was, who knew of its great success, and who knew that Finke and Holzloehner had worked together in the sea rescue service.

Q. Now, Mr. Romberg, one more question on the previous matter on the pictures. In your presence during the Dachau experiments, were any other pictures taken, whether films or individual pictures, any others besides the ones which form the motion picture which was later shown at the Aviation Ministry and to Himmler?

A. No, knew only that motion picture. That is why I thought of it first when I was shown the pictures.

Q. Then you did not take any other pictures?

A. No.

Q. Did Rascher take any other pictures during the experiments for rescue from high altitude?

A. No; at least not in my presence.

Q. Aside from you two, did any third person take other pictures aside from this motion picture?

A. I don't know whether anyone else took pictures.

Q. As far as you were present?

A. No.

Q. Later did you do any further work in the field of high altitude?

A. Yes. That was really my field of work; but I also worked specifically on the question of parachuting from high altitudes or rescue from high altitudes, the cold work which Dr. Ruff has already mentioned, parachute jumping, and cold and lack of oxygen, great altitudes, and time reserve experiments -- that is, staying at high altitudes with simultaneous lack of oxygen, and with cold. During the cold experiments we first worked on the question of parachute jumping, as the more important question; and the second thing was the question of the simultaneous effect of lack of oxygen and cold while remaining at high altitudes. These were experiments on ourselves, together with the associates. As Ruff has already said, we were

light clothing and went down to as far as 45 degrees below zero as long as two hours. One report each was written on the two series of experiments.

DR. VORWERK: In this connection, Mr. President, I should like to submit from Document Book Romberg Document Number 1, the affidavit of Dr. Walter Freitag. I should like to submit this as Exhibit 1. In the first paragraph of this affidavit the affiant speaks of his work with the defendant Romberg from 1939 on at the Institute for Aviation Medicine.

I should like to read the second paragraph. I quote: "Dr. Wolfgang Romberg was diligent and industrious and carried out his tasks conscientiously and to the best of his ability. The experiments, in particular the work in the low pressure chamber on the effects of oxygen deficiency at normal temperatures and in the cold (up to minus 45 degrees C.) required considerable mental concentration as well as extreme physical exertion. Dr. Romberg was always the first to submit to these experiments. The importance of his personal effort is especially emphasized by the large number of tests and experiments. The elucidation of a number of individual questions was probably only made possible by this effort."

Then there follows a judgment of the character of the defendant. Then I shall read the last sentence: "I am convinced that he planned and performed the experiments on inmates from an absolutely moral standpoint and that he, just as Dr. Ruff, was the victim of mean, treacherous deception." There follows a signature and certification. It is dated the 28th of January 1947.

DR. VORWERK: As Romberg Document No. 2, Exhibit No. 2, I submit the next affidavit by Dr. med. Werner Loockle. First the affiant speaks of his own work and how he got to know the defendant. Then, in the second paragraph he describes individual experiments. Later he speaks of the volunteer nature of the experiments, of the carefulness of the defendant in all his experiments, that the subjects were volunteers. Then I should like to read on page 5 of the paragraph that starts a little above the middle of the page. I quote:

"I met Dr. Romberg as a member of the institute round about 1938 or 1939. He was mainly concerned with questions of high altitude physiology, and participated in most of the planning of the experiments, where he proved to be an intelligent and circumspect, extraordinarily cautious and conscientious advisor. He always paid special attention to all security installations and precautions. Nearly all the people working there confidently asked his advice when dangerous or as yet unknown experimental conditions had to be tested. He always undertook the training of new assistant personnel, and his efforts were extremely successful. He always took part himself as an experimental subject in the experiments necessary for his own work and for the work of other members of the institute even if the experiments were unpleasant or dangerous. Romberg only worked with volunteer experimental subjects: I think he would never had made use of any forced 'readiness to volunteer'. In view of his character I consider it to be quite out of the question for Dr. Romberg to have taken part in unscrupulous experiments or in cruelties.

"A Closer acquaintance with Dr. Romberg, showed his

political attitude to be open to the world and definitely above the narrow nationalistic ideas prevailing at the time. His objections against certain measures of the regime were well thought out and were not without a certain grim sense of humor.

"Long conversations with similar minded persons in his room were a real consolation, to us in these abnormal times. It was Dr. Romberg who skillfully provided a possibility to listen to foreign radio stations in the institute."

And follows the signature and certification.

In view of the political attitude of the defendant I should like to submit Document Romberg No. 3 as Exhibit No. 3. This is an affidavit of Mrs. Nadja Bartsch of the 20 February 1947 and she says: I quote the first paragraph:

"I have known Dr. Hans-Wolfgang Romberg since the summer of 1943 as an extraordinarily helpful physician and co-tenant. On closer acquaintance with him and his family I found him to be the strongest opponent of National Socialism. We all constantly listened together to foreign broadcasts both in his rooms and ours and our conversations were anything but pro-nazi.

"I should like to remark here that as a non-aryan, I would never have associated with anyone who had other ideas.

"When I heard of the accusations made against Dr. Romberg, I could hardly believe them, for I know no one among my acquaintances who was such a fanatical opponent of National Socialism and, on the other hand, was such a helpful physician and man."

There follows the signature and certification.

As Romberg Document No. 4 I should like to submit the affidavit of Fritz Ebmeyer which will be Romberg Exhibit No. 4. This is dated 19 February 1947. I quote - first paragraph:

"I have known Dr. Hans-Wolfgang Romberg since 1943. When the Nazi authorities refused me permission to marry my fiancée, who, according to the regulations in force at the time, was of mixed descent Grade II, Dr. Romberg showed his political views by advising me to wait patiently as this regime could not last much longer and then I should be able to marry. After the collapse in 1945 I married my fiancée.

"If Dr. Romberg had had any pro-Nazi feelings, my fiancée and I would have had nothing to do with him or his family. Apart from the foreign broadcasts, to which I constantly listened at his home, it was his truly fanatical anti-National-Socialist attitude which supported me in my views."

There follows the signature and certification.

Now, let's get back to the high altitude experiments, Dr. Romberg. I should like to ask you why did you not forcibly prevent Rascher from breaking off the experiment when you saw that it might be fatal?

A. You mean prevent him from carrying the experiment on?

Q. Yes.

A. Basically I can say the following. An academic man and a scientist by virtue of his education and training is hardly able to attack someone physically and achieve anything by brute force. I personally am not a violent man or a boxer I think you will be willing to believe. For myself specifically and for a scientist in general to make his ideas prevail by violence. He relies more on words or

arguments on his powers of persuasion. That is the general answer. As for the specific question - in Dachau I can say the following; That I had any legal duty or right to interfere by force I cannot imagine. In any case I could not get this idea from the situation. I had special permission -- I was so to speak a guest in the Dachau camp - and I had had to sign a paper saying I was under orders of the camp administration and SS courts. I had to submit to all orders and rulings dealing with the administration of the camp. I could not give orders to any one in the camp, either Rascher or a prisoner. I did not have any right to criticize any orders of the Camp Commandant or to change them or to object to them. I had no supervision over Rascher nor over the prisoners. But Rascher did have supervision over me within the concentration camp. Only in the course of performing our experiments for rescue from high altitude did I have a right to make suggestions and to give advice to Rascher and to our experiments, because of the two men, I had the more experience in this specific field and in that sense I could make suggestions to Rascher or give him advice as is customary among two scientists working together in the same field. And so I was able to arrange for our experimental subjects that I considered necessary and the ordinary performance of the experiments and insist how often they came or that their food should be good, etc. Now, if Rascher in experiments which he was ordered personally to perform for Himmler brought his own experimental subjects to the station, these were men who had been condemned to death or volunteers. If Rascher performed experiments with these men I could watch. I could even advise him to stop. I could point out a danger but I had no right to prevent him even if I had

seen that he clearly intended to kill the experimental subjects. If I had attempted to attack Rascher personally, or knocking him down, since he was a Luftwaffe officer he always carried a pistol he probably would have shot me or he could have had me arrested. In any case I could never have gotten out of the camp. I did not carry any weapons. As a civilian I didn't own one. I could never attack him personally.

The whole idea of an attack on Rascher seems to me too grotesque if I imagine, for instance, that a civilian comes into a research institute in the Luftwaffe, such as a low pressure chamber experiment with fatal results -- Ruff mentioned such experiments here yesterday, for example -- and then simply shoots at the man who has performed the experiment, and besides I should like to say that the whole problem now, looking back on it, looks quite different. The facts were that Rascher was performing experiments which had been ordered. He had the authorization from a competent man in the government. The subjects were volunteers; they had been promised that they would be pardoned. One can, with right, demand that a person object to the execution of a criminal order or to the execution of an order which he does not think is right, although the matter becomes difficult here because not every one is capable of judging every order, but one can hardly demand that a person attack some one else in order to prevent him from carrying out such an order, risking both his own life and the life of the other person. That personal cowardice played no role in my case, I should like to state expressly.

Q. Now, did you do anything, and what did you do in order to stop Rascher's experiments and did you assume any danger and, if so, what?

A. What I did against Himmler's orders and against my signed promise to keep secrecy, the fact that I reported the incidents to my boss who passed the information on, was dangerous. One probably understands enough about conditions under Himmler to realize that. The witness Neff has described my attitude to Rascher's experiments. He confirmed that I intervened in one case when he was present. Perhaps he knows nothing about my other objections. In general, the debates between Rascher and myself did not take place in the presence of the prisoners. The low pressure chamber was removed from Dachau, earlier than intended, at our instigation. Against Rascher's and Himmler's wishes it was never returned to Dachau. How great the efforts of the SS were in this direction is shown by the document. These efforts

begin with Wolf's telegram to Milch, the 12th of May, which is mentioned in Milch's letter of the 20th of May, Document 343A PS, Exhibit 62, which is denied in that letter. In answer to further efforts from Himmler, Milch answers that the chamber is to remain two months longer in Dachau. Document 261, Exhibit 63. At this time, we had already removed the chamber. On the 5th of June, Rascher again writes to Himmler about the low pressure chamber. Document 284, Exhibit 64, is the answer to this letter of the 5th of June. The letter itself is, unfortunately, not available. This letter, no doubt, says that the chamber was removed from Dachau in May, while the prosecution alleges that the experiments continued until August. There, there is a certain pause in Rascher's and Himmler's efforts, because Rascher is busy with the cold experiments. Rascher does not forget when the film is shown in Berlin in the Aviation Ministry to tell Milch again of his wishes in regard to the low pressure chamber, but hardly has the first phase of the cold experiments -- the series with Holzloehner -- been finished, and he writes on the 9th of October, Document 161 OPS, Exhibit 73 -- writes to Himmler again. He asks Himmler to get him the low pressure chamber so he can continue his experiments and qualify as a professor. The letter of the 21st of October, 1942, Document 226, Exhibit 75, Sievers writes to Brandt about the continuation of the high altitude experiments which Himmler wants, but knowing of the existing difficulties, or for other reasons, he adds that Himmler will no doubt have to write to Milch personally in order actually to get the chamber. This happens on the 27th of November, 1942, Document 269, Exhibit 78 -- a letter from Wolf to Milch, on behalf of Himmler. The request for the low pressure chamber, which is expressed in this letter, mentions the opposition of the Luftwaffe doctors and is given definite emphasis. I learned from a telephone call from Sievers, which he mentioned in his testimony, that he was to buy a low pressure chamber for Rascher on behalf of Himmler. I was greatly astonished at this telephone call at the time,

because I knew very well that Rascher certainly didn't want to have this made public in any way. Now, this telephone call has been cleared up. Then I informed Ruff of this call -- this whole matter-- and he had Becker-Freyseng take further steps, as he said here yesterday. In an official letter to various SS Agencies, dated 13 December 1942, Document 1612 PS, Exhibit 79, Rascher is given the assignment to carry out high altitude experiments, by Himmler personally. On the 14th of March, 1943, Document No. 270, Exhibit 110, Rascher tells of his discussions with Hippke and again says that he wants to carry out low pressure chamber experiments, together with me, and finally, on the 18th of November, 1943, Document No. 1057, Exhibit 463, he tries, through the Reich Research Council, in agreement with Himmler, again to get a mobile low pressure chamber in order to carry out experiments. Those are Rascher's and Himmler's efforts and, nevertheless, Rascher never again had a low pressure chamber at his disposal for experiments.

Q. Well, what do you want to prove by these statements?

A. This no doubt proves clearly how great Rascher's and Himmler's efforts were. That my conduct under these circumstances was not only cowardly, that it was much cleverer and much more successful. Even if I had had any legal obligations to prevent him by force, if I had made the criminative attempt and the attempt which had no prospect of success to prevent him from carrying out these experiments, I would have been killed or locked up and Rascher would have been able to continue his experiments for a long time without any restriction.

Q. At that time, was there any possibility in Germany to resist, and in what did you see such possibility?

A. There were only three types of resistance possible. First of all, for a person who was able, immigration. Second, open resistance which meant concentration camp or death penalty, and to my knowledge, never had any success. Third, passive resistance, the apparent giving-in, delaying orders, criticism among one's friends -- what the writers

are now calling "inner immigration". But that really doesn't have much to do with the question. As far as the direction question of prevention is concerned, I would like to say something more. To take a comparison from the medical field, it is unknown to me and I cannot imagine that, for example, an assistance of a scientist research worker who is performing infections with a fatal disease -- for example, leprosy -- on a prisoner, that the assistant should, by force, prevent the scientist from carrying out this infection. Perhaps, if he didn't do that, the man might die in knocking the hypodermic syringe out of his hand. I could imagine that some assistant might, for personal reasons, refuse to participate in such experiments, but I cannot imagine that, if there should be a trial against this doctor, it should be demanded that an assistant prevent the scientist from doing this.

Q. Then, you are convinced that prevention by force was impossible?

A. Yes.

Q. But could you not have filed charges, for example, with the police or with the public prosecutor, against Rascher?

A. Yes, of course, I could have, but if I had gone there and said: "Rascher has carried out experiments ordered by Himmler -- by the Chief of the German Police and what else was he, Reichsfuehrer SS, State Secretary in the Ministry of the Interior," they would probably have said: "Well, we can't do anything about it. If he has orders, then we can't do anything about it."

Q. Was Rascher under the jurisdiction of the civilian authorities?

A. No, he wasn't. As a Luftwaffe officer, he was, of course, under the Luftwaffe.

Q. Then you would have had to report him to his superior in the Luftwaffe?

A. Yes, and I really did so through my private channels. I went to Ruff and told him about it and Ruff went to Hippke who was Chief of the Medical Service and, in a sense, the supreme superior of the Medical Officer Rascher.

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Q. Mr. President, this might be a suitable time to break off.

THE PRESIDENT: Counsel, can you advise the Tribunal as to how long you expect it will require to present your direct case in defense, concluding with this witness and any other witnesses you may have, and the documents you may desire to present?

DR. VONMERK: For the direct examination I will need about half an hour. There will be no other witnesses.

THE PRESIDENT: The Tribunal will now be in recess until 9:30 o'clock tomorrow morning.

(A recess was taken until 0930 hours, 2 May 1947).

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Official Transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nuernberg, Germany, on 2 May 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the Court room will please find their seats.

The Honorable, the Judges, of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the Courtroom.

THE PRESIDENT: Mr. Marshall, you ascertain if the defendants are all present in court.

THE MARSHAL: May it please your Honor, all defendants are present in the court with the exception of the Defendant Oberheuser, absent due to illness.

THE PRESIDENT: The secretary-general will note for the record the presence of all the defendants in court save the Defendant Oberheuser who is absent on account of illness, according to a note filed by the prison physician. The Secretary-General will file the note.

Counsel may proceed.

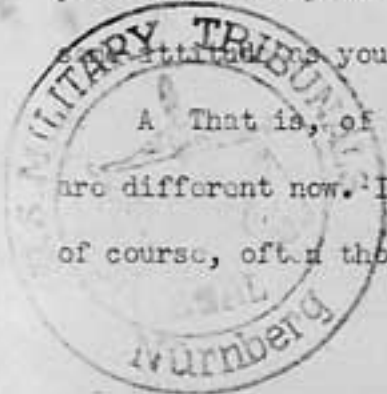
DR. HANS ROMBERG - Resumed

DIRECT EXAMINATION (Continued)

BY DR. VORWERK (Counsel for the Defendant Romberg):

Q Mr. Romberg, yesterday you answered to my last question, why it was impossible for you by using force to oppose Rascher's experiments and to prove that there would have been no purpose in denouncing him to the Reich authorities. I would now like to ask you, assuming the case you would find yourself in a similar position today, would you take the same attitude as you did then?

A That is, of course, extremely difficult because the conditions are different now. I know Rascher—I know the whole situation. I have of course, often thought about that point. If, my present knowledge,



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I were again put in the same situation, I am certain that I would act differently. I would probably go to Berlin after the death and report it, and then I would go home, get a medical certificate saying that I was sick, and write to Dachau and say that I could not come back. What Rascher did then and how the experiments turned out the main thing would be I would be out of it, then I would probably save myself the one and half years in prison and the trial.

Q Is that your true opinion?

A If I think over what I said one of course often imagines that, but I really don't believe I would do that because one can't act against one's inner convictions. I would probably not take this cold calculating point of view and let everything take its course. I would probably go back just the way I did and carry out the experiments, see to it that the chamber could be taken away. I would probably do everything just the way I did it then.

MR. HARDY: Your honor, I don't believe the Tribunal is particularly interested in what the Defendant Romberg thought he would have done under the same circumstances if they arose again. This is purely speculative.

THE PRESIDENT: Objections by counsel for the prosecution appears to be well taken. What have you to say counsel?

DR. VORWERK: The defendant has been asked what attitude he would take if he were faced with the same situation which he faced at the time. The Defendant has answered that question.

THE PRESIDENT: Do you intend to pursue this line any further?

DR. VORWERK: No, he has answered the question.

THE PRESIDENT: All right. Proceed.

BY DR. VORWERK (Continuing):

Q Witness, in this court mention has been made that in the course of the high-altitude experiments several visits were paid by some SS officers; were you present in Dachau when these visits occurred?

A The visits in Dachau that I remember are the visits of Grawitz

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the Reichsartz of the Police, and the visits of Sievers which Sievers has already mentioned here. And I also know that Himmler was there, that was on Sunday and I was not there that day but later, of course, I was told all about it.

Q Was that the only visit you can recall?

A The only visit of Himmler's, or do you mean the only visit--

Q The only visit by higher SS officers.

A I do not remember any other visits.

Q Your c-defendant Sievers testified here that while he was there, he noticed that an experimental subject during the experiments pointed to his ear in order to indicate that the experimental subject suffered from pains in the ear, thereupon, you produced a different altitude. Do you recall that incident, and what have you to say about that?

A It was a sign which we had agreed upon, that they should point to the ear there if they had earache, perhaps during the descent, and that was probably what happened during this visits of Sievers. We always made the descent slower or went up a little again in order to do away with the complaint.

Q Why do you particularly remember that incident while Sievers was there?

A Rascher wanted the descent to be rapid and I stopped it on purpose, and he told me later, when visitors are there that has to be done quickly and I said, "Whether we have visitors there, or Sievers or somebody else, that makes no difference, the experiments has to be carried out in the same way."

Q At that time when this incident happened did Rascher reproach you for bad conduct or something like that?

A He possibly held the point of view that when we had visitors I had to make the experiments faster so to say considering the fact that we had visitors at the experiments, but I refused to do so.

Q What did he mean by you should do in taking the visitors into considerations?

A The experiment was to be carried out as quickly as possible, while I held the point of view that the experiment is the main thing and the visitor has to look at the experiment and watch it in the form in which it is always carried out. After all, these were not demonstrations.

Q Another subject now, what attitude did you take after the Dachau experiments, what was your position with the DVL after the Dachau experiments?

A At first I was a scientific co-worker just as I had been before. Our department for aviation medicine was expanded gradually and became an institute, and in 1943 I became section chief in the section for high altitude.

Q Today, do you still think that the experiments were at that time important?

A Yes absolutely. Recently, I accidentally obtained proof that this opinion is still correct today. I read an article about a new aviation experiment of a plane with a rocket propeller.

Q May it please the Court, at this point I would like to offer Rosenberg Document 5, Rosenberg Exhibit No. 5, an article from "Life" magazine under the heading, "Scientists Prepare to Fly Faster Than Sound." This is the issue of Life Magazine of 20 January 1947. This should serve as evidence for the fact that in aviation under post-war conditions similar problems are regarded as important, just as were the problems for which these experiments to rescue people from high altitude.

MR. HARDY: May it please, Your Honor, it is my understanding that the evidence of this nature will be offered at a later date and will be acted on at that time by the Tribunal.

DR. VORWERK: Mr. President, may it please the court, in this case this is not an experiment made abroad and about which the court has already ruled. This is not an experiment at all; this is merely to show the fact that a certain problem exists.

MR. HARDY: That being the case, Your Honor, I strenuously object to the statements of the defense counsel and this Document as being absolutely immaterial.

THE PRESIDENT: It is a matter of common knowledge of which the court will take judicial notice that the experiments in connection with planes to attain speed and velocity by machines heavier than air is being pursued by scientists everywhere. That is a matter of common knowledge of which the court will take judicial notice. Counsel may offer this exhibit, it will be received, but the court will take judicial notice of this, as it is common knowledge that everyone knows. The document offered will be submitted, but the exhibit should not be read, it should merely be an exhibit and placed in the record.

DR. VORWERK: I did not intend at all, sir, to read the Document.

Dr. Romberg, what do you have to say about the fact of the importance of your experiments connected with this article in "Life?"

A There is a similarity between this described new plane and the Me 163, which was the main occasion for our experiments, since it is also a plan with a rocket drive and thus independent of altitude. It is characteristic that in these new planes, just as at that time with our Me 163 great hopes are set in the beginning for future accomplishments. The speed of up to 1,700 miles is mentioned and the pressure cabin, which is equiped and is built for an altitude of 80,000 feet too. The possibility to reach this altitude is already given and depends only on the supply of fuel. The American Aviation medicine has now reached the same point, which we reached at that time. The Me 163 for us was

out of the experimental stage and the American experts on aviation medicine, if they have not already done so, will no doubt be studying the possibility of rescue from high altitude and high speed. The necessity of rescue from high speed is mentioned specifically in this article and the difficulty involved.

Q Dr. Romberg, the necessity to carry out such experiments, is that not shown also by the Prosecution Document No. 289, Exhibit 72?

THE PRESIDENT: What Document book is it?

DR. VORWERK: Prosecution Document book 2.

THE PRESIDENT: On what page?

DR. VORWERK: It is on page 106 of the English version, Your Honor.

THE WITNESS: This is the letter, which Hippke wrote to Himmler after the experiments were completed, in which he discusses the result. He emphasizes that the experiments were valuable and important in their results. He says, it is true, that cold was not considered in this matter, which involves an increased burden. We ourselves undertook these cold experiments later and further one of the most important results of our report was that in rescue from these high altitude one should prefer rescue with a closed parachute and for the same reason, it is suggested, or rather demanded, that the parachute be equipped with a blocking equipment for high altitude, so that it cannot be opened accidentally or intentionally after leaving the plane. In the second place, it is demanded in the case the parachuter becomes unconscious and does not regain consciousness in time, there will be an automatic device steered barometrically to topen the parachute at an altitude between 4,000 and 6,000 meters. The matter of cold does not play any great role in this because the time speed in these high altitudes, where the temperature is very low, is very slow, 10 seconds per 1,000 meters. Aside for possible local freezing of the face, for example, no serious damage from the cold can be expected.

BY DR. VORWERK:

Q Witness, a few questions on your reporting to Himmler during that conference.

Was there any reference made to those experiments which Rascher made on his own in Dachau?

A No, at least not in my presence.

Q Did Rascher have any other conferences with Himmler apart from the one where you were present?

A Yes, on the next morning, Rascher talked to him again. I was not present.

Q Do you know what problems or orders Rascher wanted Himmler to give him in the field of high altitude research?

A When we visited the Headquarters, Himmler had spoken of the continuation of the high altitude experiments. What was intended and the details. One can no doubt see most clearly from this Document Exhibit 79, Document Book 2, Document 1612-PS. That is the official assignment, which Himmler gave to Rascher to carry out a certain series of experiments.

It says among other things and I quote:

"SS Hauptsturmfuehrer Dr. Rascher is being assigned by me to carry through the following experiments:

"(1) Low pressure chamber experiments, to be carried out under conditions corresponding to those actually prevailing under normal operating conditions, for rescue from high and extremely high altitudes. Determination of changes in chemical equilibrium, as well as gas equilibrium of human body. Experiments are to be repeated until a scientifically incontestable basis for findings is established. Testing of pressure-proof protection garments for the highest altitudes to be carried out with the assistance of manufacturers of such protective suits."

This shows that Rascher performed very extensive assignments and Rascher no doubt intended to carry out the experiments. He, of course, did not know the details.

Q. Did Rascher ever tell you in what fields he was working? I mean as far as high altitude experiments were concerned.

A. While we were at Dachau?

Q. While you worked at Dachau on your experiments to rescue people from high altitudes.

A. No, he never said anything definite. He did say that in the case of Benz he wanted to clear up with KG but, of course, he did not give me any details about his answer.

Q. Witness, whom among your co-defendants did you know in 1945, at the beginning of 1945?

A. By name, Professor Brandt, Professor Handloser, Professor Rostock. Professor Schroeder I knew because he had visited us at the DVL once or twice. I did not know Dr. Gensken; Professor Gebhardt, Professor Blome by name; Dr. Krugowsky a little; Poppendick not at all; Professor Rose by name, I met him at meetings. Dr. Ruff was my chief. I did not know Mr. Brack. Dr. Becker-Freyseng I knew from aviation medicine work which he did with Professor Strughold, and Professor

Waltz I knew. Of the other four and Dr. Oberheuser I knew no one.

Q. With whom did you have official relations?

A. I had official relations in aviation medicine with Dr. Ruff, of course; at times with Becker-Freyseng, also in the way of conversations. I didn't have direct official relations with Dr. Schroeder but he was on official business when he visited our institute, and I met Professor Waltz in 1942.

Q. Which of the experiments discussed here were known to you when you were arrested?

A. When I was arrested the high altitude experiments, of course, and the cold experiments.

Q. When you say the "cold experiments", do you mean to say that the fact that cold experiments were carried out was known to you, or do you want to say it was known to you to what extent and in what manner they were carried out?

A. As to the extent and exact manner I knew nothing. My knowledge is based on the conference in Nuernberg and on the fact that I had heard that cold experiments were to be carried out.

Q. So you took part in the Nuernberg conference, did you?

A. Yes, I spoke about that yesterday already.

Q. Did you take part in any other meetings in Berlin, St. Johann, Hohenlychen, or anywhere else?

A. No, I did not attend any meetings of consulting physicians or any meetings which have been discussed here. The other meetings were internal meetings of the Luftwaffe doctors which took place from time to time.

Q. Now, a final question. Why did you sign a report together with a man like Rascher?

A. I have been asked the very same question by Professor Alexander, why I signed a report together with a criminal like Rascher. I may say several things on that. The picture of Rascher as a criminal is clear today. For me at the time Rascher's personality and his position, how-

ever, were not so clear from the legal and from a moral point of view. We repudiated Rascher's experiments inwardly. What we did not like was the fact that he undertook human experiments on questions which in our opinion were not of the highest importance and not of decisive practical importance, and also in these experiments he did not proceed with the necessary care and caution, so that death occurred. Therefore, we not only repudiated the experiments inwardly, but we also repudiated them externally, that is, we refused to cooperate with Rascher any further. But this was merely our personal opinion and was also the basis of our private attitude toward him. According to knowledge of literature about experiments on human beings in all countries, I today have the personal opinion that in a number of cases the experiments were sometimes unnecessary and that some cases of death could have been avoided; that many a piece of work was not well enough prepared and was not limited to what was absolutely necessary. But from this subjective attitude to advance to the objective verdict that a certain scientist was a criminal, that was a great and decisive step, and so I signed the report together with Rascher. Ruff did not have any misgivings either against countersigning this scientifically correct report and making the results available for further developments. Today I am actually glad I did so for it is the clearest proof of the separation of the Rascher experiments from ours. It is very difficult if one has only the prosecution documents and prosecution witnesses with which to conduct one's defense, and if this report were not available one of the most important proofs against the serious charges would be missing.

Q. For the time being I have no further questions.

THE PRESIDENT: Are there any questions to be propounded to the witness by defense counsel?

DR. TIPP: Dr. Tipp for the defendants Schroeder and Becker-Freysang.

BY DR. TIPP:

Q. Witness, in this trial you gave an affidavit which was submitted by the prosecution as evidence. It is contained in Document Book No. 2 on page 1 of the text. It is Document No. 476, Exhibit 40. Do you have the document at your disposal?

A. Yes.

Q. I would now ask you to look at figure 8 in this document. There you said:

"After the low pressure experiments were completed, Dr. Rescher and I made a report which was approved by Ruff and signed by the three of us. This was circulated to all interested offices in the Luftwaffe. In my opinion, Dr. Anthony of Medical Service of the Luftwaffe must also have received a copy of this report. I do not remember if Becker-Freyseng was with the medical Inspectorate at that time but if he was he certainly knew that these experiments were being conducted."

Now, of course, we know, witness, that Dr. Becker-Freyseng was in the medical Inspectorate from 1941 on as an assistant expert. Therefore, it might be possible that from that affidavit the prosecution might draw the conclusion that Dr. Becker knew of these experiments and reports. Therefore, I would like to ask you, witness, do you have any factual proof and real knowledge of the fact that Dr. Becker-Freyseng in fact knew of these experiments and above all of this particular report?

A. No, I have no positive knowledge to that effect. In the interrogation I was asked whether the report - whether a copy of the report was sent to the medical Inspectorate and I was convinced of this fact---

Q. May I interrupt you a moment, witness. You say you were "convinced" of that fact that this report was sent to the medical Inspectorate, but did you actually positively know it?

A. No, I did not see the distribution list itself when it was finally approved by the Aviation Ministry and I want to say that if the report was sent to the Aviation Ministry then it was certainly sent to the Department for Aviation Medicine and the expert of this depart-

ment would certainly have learned about it. I said especially that Dr. Anthony probably received it. I do not remember whether Becker-Freyseng was in the Medical Inspectorate at that time. I did not remember at that time that Becker-Freyseng was working with Anthony, was Anthony's assistant in the Medical Inspectorate at one time. I thought that if this Anthony had been an expert he would have learned of it, but if Becker-Freyseng had been an expert he would have learned of it, but I knew that at that time he was an assistant expert while I had assumed that Dr. Anthony was not there at all.

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Q. Therefore, you were saying, witness, that you merely assumed this fact here?

A. Yes.

Q. Then may I ask you in the same document and in the same paragraph under Figure 8; please look at the last sentence. There you say, Dr. Oskar Schroeder in 1942 was the second-highest ranking officer in the medical service of the Luftwaffe, and probably he also knew of these experiments, although I personally never talked to him about them.

I should say from this very formulation you have no positive knowledge of the fact whether or not Prof. Schroeder knew anything about this business. Is that correct?

A. Yes, what I meant to say by this formulation which I worked out after considerable discussion in the interrogation, I adopted this formulation on purpose. "He probably knew about these experiments" but in order to say that I had no positive personal knowledge-- I said that I personally never talked to him about the matter, that I knew nothing positive..

Q. Thank you very much.

DR. TIPP: May it please the Court, the Defense Counsel for Weltz is not present today. He asked me to put the questions on behalf of his client, and I would like to obtain your permission for this.

THE PRESIDENT: The permission is granted.

BY DR. TIPP:

Q. Witness, on behalf of defendant Weltz I still would like to go into your affidavit. I would now like you to go back to the first page of your affidavit. I am interested here in Figure 2. There you speak first of all

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about the time when the experiments were conducted in Dachau, and what was their purpose. Then you said, around the middle of the paragraph: "Dr. Ruff was first approached to assist in the high altitude experiments at Dachau by Dr. G.A. Weltz, Chief of the Institute for Aviation Medicine in Munich. This was in December 1941 or January 1942. Dr. Weltz advised Ruff that Dr. Sigmund Rascher, a doctor in the Luftwaffe and also a member of the SS, was to perform the high altitude experiments. Weltz wanted an expert to work with Rascher on these experiments."

Witness, now we have heard your testimony and also that of Dr. Ruff. And Dr. Ruff, in particular, told us in detail about the conference between himself and Prof. Weltz. That conference, if I understood Ruff and you correctly, was aimed at Dr. Weltz's making the suggestion to have the second part of your experiments which you, yourself, had conducted in Aldershof as experiments on yourself; to transfer to Dachau, to experiment on inmates. And that that possibility was made available by Dr. Rascher.

In your testimony here it looks as though Weltz or Rascher had planned experiments for Dachau, and as though for those experiments which Weltz planned, you or Ruff respectively were called in as experts to assist in the experiments. May I now ask you, witness, to tell me which opinion is the correct one: first one which I have deduced from yours and Ruff's testimony--or the opinion which seems to become clear in your affidavit?

A. In the discussion with Weltz-- that is, the discussion between Ruff and Weltz--I was not present, as Ruff

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has already said. My knowledge of this discussion is based on what Dr. Ruff told me later, and as he explained it that within a general discussion about important questions of aviation medicine, the problem of rescue from high altitude came up, and this possibility of obtaining experimental subjects for these experiments because Dr. Rascher had the permission to use them, was also discussed. The formulation in the affidavit did not come from me personally. It was submitted to me in this form. If I did not object to this expression: "...approached to assist... as an expert, it was because my memory of what Dr. Ruff told me about the discussion with Weltz was not in contradiction to it. Some agreement on the experiments had been reached in this discussion.

Q. Now, today, witness, you know from Dr. Ruff's report how this discussion went, and surely you will agree with me that it would be more correct to say that some of your research program, the program of Dr. Ruff, or the DVL, had to be continued in Dachau?

A. Yes.

Q. Very well, Now, another question, witness. As we know, you collaborated for some time with Dr. Rascher in Dachau, and I may assume, that Dr. Weltz was mentioned in these experiments. On those occasions did Dr. Rascher ever tell you that he and Dr. Weltz differed very considerably in certain points?

A. Yes, he talked about that repeatedly.

Q. Can you give us more details of these differences? Were they concerned with the facts perhaps that Prof. Weltz, wished to supervise Dr. Rascher, who at that time, was still a member of his institute, whereas Dr. Rascher in his turn did not like that supervision?

A. Yes, that was said. The telegram from Himmler

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played an important role, saying that the experiments were to be kept secret. Rascher took this telegram to Weltz, showed it to him, and he told him that he was not allowed to give him any reports because of this telegram.

Q. That telegram you saw yourself, witness; did you?

A. Yes. Rascher showed it to me too, of course, to emphasize my own obligation to secrecy.

Q. Do you still recall the wording of that telegram?

A. I believe it was teletype; it was very short. It said only that the high altitude experiments in concentration camp Dachau were to be kept secret, absolutely secret to everyone. I am not sure; it have said "Top Secret".

Q. And, as you said yourself, Rascher showed this telegram to Dr. Weltz, and thereby avoided Weltz's supervision. Is that correct?

A. Yes. I was not there, but he told me that he had showed it to Weltz.

Q. Yes.... very well. Now, did Rascher, as far as you were concerned, make any remarks on Prof. Weltz's character?

A. Yes; he said that he was a strong Catholic, I believe he called him a "black" fellow, who collaborated with the circles of Catholic activists, and who, therefore, would not be suited to collaborate with such experiments or to learn about them.

Q. May I, therefore, understand you to the effect that Rascher did not like Prof. Weltz, and declined to have anything to do with him just because of his Christian attitude?

A. Yes.

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Q. Very well. One final set of questions, witness. When, for the last time, did you talk to Prof. Weltz about the Dachau experiments?

A. I cannot remember the time exactly; it was certainly before the actual start of the experiments--when I talked to Prof. Weltz the last time.

Q. Do you, by any chance, know witness, whether your last conversation with Dr. Weltz took place before the teletype was shown to Weltz by Rascher-- or afterwards?

A. My last talk to Prof. Weltz was before this teletype.

Q. Before the teletype. Now, do you have any indication, witness, for the fact that Prof. Weltz knew anything about the actual experiments themselves?

A. No.

Q. You said just now that you and Weltz saw each other for the last time before the actual experiments really started. That is correct, is it not?

A. Yes.

Q. Do you know anything about the fact whether or not Prof. Weltz received any reports on the carrying out of the experiments?

A. He did not receive any from me. As far as I know he did not receive any at all.

Q. Can you tell us, witness, whether Rascher perhaps on some occasion reported to Weltz about the experiments, perhaps on the fatalities which occurred at the time too?

A. No; I considered that quite impossible on the basis of this telegram.

Q. Now, I should like to go back finally to your affidavit, in order to make it quite clear. This is Document NO-476 on page one of the Document Book II; in Figure 10.

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Once again you talk of Prof. Weltz, and you said, it is the second sentence: "Dr. Weltz certainly never expressed any moral scruples against these high altitude tests since it was he who originally asked Dr. Ruff and me to assist Dr. Rascher."

The question of any assistance given we have already discussed. I need not go into that now, only to clarify matters I would like you, witness, to tell us what experiments you are talking about here when you say that. After all, we know now that there were two experiments going on at Dachau; first, your experiments; that is to say, the experiments called "rescue from high altitudes", and second, the experiments made by Dr. Rascher alone. To what experiments do you refer here when you say these things in this paragraph?

A. Of course, the experiments for rescue from high altitude. This expression was originally not in the affidavit. I added it specifically in order to indicate that Weltz had no scruples against these experiments which he had previously discussed with Ruff.

Q. Now, since you told us, witness, that Professor Weltz was informed neither by you or by Rascher on the conduct of the experiments, you wish, therefore, to say, if I understand you correctly, that Professor Weltz had no scruples against the planning of the experiments for; after all, that was all he knew?

A. Yes, he could naturally only object to what he knew about the experiments.

Q. Thank you very much.

May it please your Honors, I have no further questions.

BY DR. HOFFMAN (Defense Counsel for the defendant Pokorny):

Q. Witness, after the end of the war were you a prisoner of war or an internee in some camp?

A. Yes, I was an internee for one year in camps in the British Zone.

Q. Did you, in those camps, ever hear any conversations about sterilization operations?

A. Yes, in the Camp Esterwegen, where I was last, there was a Dr. -- Dr. Meyer. He told me, when I asked him why he was interned that he was charged with performing sterilization operations in Holland.

Q. Did he also tell you when these operations were carried out?
In what year?

A. I am not sure of the year. I think that it was about 1941
or 1942.

Q. I see. I have no further questions.

BY DR. WEISGERBER (Defense Counsel for the defendant Sievers):

Q. Dr. Homberg, from what time onwards did you know the co-
defendant Sievers?

A. I met him for the first time when he came on a visit to
Dachau during the high altitude experiments shortly before Easter,
1942.

Q. The high altitude experiments were in full swing at the time,
were they not?

A. Yes.

Q. And prior to that time, you did not know him? How often did
you see Sievers at Dachau?

A. Only this one time, at this visit.

Q. And on that occasion, you were present too?

A. Yes.

Q. How did it come about that Sievers took any part in those
experiments? Was that because Rascher invited him?

A. I don't know exactly how that happened. Rascher only said
that Sievers came from the Ahnenorbe. I don't believe that he came
especially for these experiments, but he was coming anyhow and that
he would look at the experiments. Whether he was invited to do so,
or why Sievers came, I don't know.

Q. And on that experiment Sievers was merely a spectator?

A. Yes.

Q. Did Sievers ever suggest that he had orders to be present in
the experiments as an expert?

A. No, of course not.

Q. Therefore, the scientific side of the experiments was no concern of his?

A. No.

Q. Were there any fatalities in the experiments Sievers saw?

A. No.

Q. The tasks and functions of Sievers which he carried out in Dachau -- did you know any details about that?

A. No, no details. I just know that Rascher told me that Sievers was the Reich Business Manager of the Ahnenerbe and had something to do with administration or personnel questions there.

Q. Do you know anything about the fact whether Sievers had anything to do with the selection of the experimental subjects?

A. No, he certainly had nothing to do with that.

Q. Now, to sum up. I come to the result that the experiments made would have been made just the same whether Sievers was there in some capacity or whether he would not?

A. Yes, the experiments had begun before he was there.

Q. In your direct examination, you mentioned that you reported to Himmler in his field headquarters. At that time, was Professor Wuest present?

A. Yes, he was there.

Q. And did you know who Professor Wuest was? What his functions were?

A. Yes, Rascher had told me that on the train on the way and when we met Professor Wuest. Rascher told me afterwards that Wuest was, I believe he said, the curator of the Ahnenerbe and Rector of the University of Munich, and that he was the superior of Sievers in the Ahnenerbe.

Q. Then you said that, on that occasion, reference was made to further experiments, that is to say, freezing experiments. You explained that, in those experiments, the rewarming with animal warmth was to be carried out. Can you tell us whose idea was this? The

Prosecution described these things as though that method of rewarming was Sievers' brain child.

A. I believe that I was present at the birth of this idea, so to speak, when Himmler gave Rascher the assignment to go around the sea rescue stations in the North Sea -- and inquire what remedies the people applied in such cases of rescue of frozen sailors, and he said that he could imagine that a fisherman's wife would simply take her half-frozen husband into her bed and warm him up that way. That was not a particularly striking suggestion at the time. I believe that this is done along the coast, but as I saw the suggestion turn up again here, I, of course, am horrified too.

Q. Can you recall whether Himmler, at that time, ordered Rascher to have these rewarming experiments carried out through using the body warmth of women?

A. No, he certainly did not give the assignment yet at that time. The matter was simply discussed in conversation about the possibilities for rescue.

Q. And, in that conversation, Professor Wuest was present, was he not?

A. Yes, Wuest was present.

Q. Now, did Wuest make any objection to such a proposition?

A. No, Wuest certainly made no objection.

Q. In that conversation on cold experiments and anything connected with cold experiments, did Sievers come into that at all.

A. No, his name was certainly not mentioned.

Q. Through the intimate contact between yourself and Rascher, which was the result of the experiments, you certainly heard him mention something about the fact that he wished to be transferred to the Waffen-SS?

A. Yes, he had spoken about that repeatedly. Perhaps during the high altitude experiments, but I don't believe so, but he certainly spoke about it when we were to report to Milch in the Aviation Ministry

when we did not quite succeed.

Q And did Himmler give any indication that he himself wished Rascher to be transferred to the Waffen-SS?

A When I visited him? At that meeting?

Q Yes, or did Rascher tell you anything of that description?

A Rascher told me about it, but I don't believe it was mentioned during the discussion.

Q At least, not while you were present still because you said before that there was another conference on the next day?

A Yes, that's right.

Q Now, my final question, Dr. Romberg, would you please take up once again your document book concerning high altitude experiments and, in particular, your affidavit which has been mentioned so often before. That is Document 476, Exhibit of the prosecution # 40, on page 1 of Document Book 2. On Page 3, at the bottom: "Wolfram Sievers of the Ahnenerbe Society of the SS was also familiar with these experiments and was in Dachau several times when they were being conducted."

The word "familiar" - has it been put there at your request? Because, as I recall, Sievers has been there only once as a mere spectator and that he is not a scientist, I am rather surprised at that term "familiar".

A. That formulation of all these affidavits did not originate with me. I want to say that he knew about these experiments and that at one occasion he had watched one in Dachau and I saw him personally at the experimental station.

Q. In other words, that he knew of the experiments -- those things which he had seen himself?

A. Yes, apparently he knew that experiments were carried out and he knew what he had seen during the visit.

Q. My final question, any reports, oral reports or reports in writing, were they sent to Sievers or the Ahnenerbe, as far as you know?

A. Not to my knowledge. I do not know exactly, however, but I assume that one copy of the research report was sent to the Ahnenerbe.

DR. WEISGERBER: I have no further questions, Your Honor.

THE PRESIDENT: The Tribunal will now be in recess.

(Thereupon a recess was taken.)

THE MARSHAL: Persons in the courtroom will please find their seats.
The Tribunal is again in session.

THE PRESIDENT: Are there any further questions of the witness by defense counsel? There being none, the prosecution may cross examine.

CROSS EXAMINATION

BY MR. HARDY:

Q. Dr. Romberg, where did you study medicine, doctor?

A. Berlin and Innsbruck.

Q. Were you ever in the Wehrmacht?

A. Yes, in 1936 and 1937, that is, December 1936 to January 1937 I had two months basic training in the Luftwaffe and then two periods of additional training so that at the beginning of the war I was an Unterarzt in the reserve.

Q. When were you first assigned to the German experimental station for aviation, the DVL?

A. I never was in an experimental station but from 1 January 1938 I was in the DVL in Adlershof.

Q. Was it because of your position in the DVL and your work in the field of aviation medicine the reason why you were not in active duty with either the Luftwaffe or some other branch of the Wehrmacht?

A. Yes, I was declared essential for that agency, the DVL, so that I could serve in the DVL during the war.

Q. Well now, you have expressed here in the course of your direct examination by virtue of some affidavits which you have introduced in evidence that you were an anti-Nazi. Is that the impression you want to create upon this Tribunal?

A. I didn't ask for these affidavits, rather they were sent to me so that I had no influence on the way these affidavits were expressed, particularly the Jewish one from Berlin.

Q. Were you a member of the Nazi party, doctor?

A. Yes.

Q. When did you join?

A. 1 May 1933.

Q. You joined very early, didn't you?

A. That was the time when quite a number of people joined the party, right at the beginning. I was a student at Innsbruck at the time and joined on 1 May 1933.

Q. Was it to your advantage during the course of the time you were a student to be a member of the Nazi Party?

A. No, it had no influence on my studies.

Q. You joined by choice?

A. At that time I thought that good would come of it.

Q. Now, doctor, you have stated here on direct examination the first time you heard about the experiments to be conducted at the Dachau concentration camp was when Ruff informed you he had a visit from Professor Wetz, is that correct?

A. Yes.

Q. After Professor Wetz paid a visit to Ruff, how extensively did you and Ruff discuss the visit of Professor Wetz?

A. That lasted a half an hour or perhaps as much as an hour for sure.

Q. At that time was it established that the concentration camp inmates were to be subjects used in the experiments?

A. Yes, as I recollect, that was already said in this conversation.

Q. Then it is true that Professor Wetz informed Ruff that it was the plan to conduct these experiments at Dachau on inmates of the concentration camp?

A. Yes, that was essentially the contents of that conversation between Wetz and Ruff.

Q. Well then, in a matter of a few days you and Ruff proceeded to Munich for a conference, is that correct?

A. Christmas intervened there, so probably it was about a month later when that trip took place.

Q. Now, when you arrived at Professor Wetz's institute in Munich, you found Rascher present, is that it?

A. As I remember, he wasn't there at the beginning. He came later. We arrived first.

Q. And that was the first time you ever met Rascher?

A. Yes.

Q. Did you discuss among yourselves at that time - that is the conference wherein Weltz, Rascher, Ruff, and yourself took part - the purpose of these experiments?

A. Well, the purpose was also discussed although it had already been established before that on the basis of the decision and we went to Munich in the first place to carry out these experiments.

Q. Well now, in this preliminary meeting what was the point which you were trying to establish? Was it research into high altitudes above 12,000 meters?

A. It was the pressing program of finding out how to rescue people from those altitudes.

Q. And this would be the first time in this particular field that such research was to be conducted, is that it - that is, higher than 12,000 meters?

A. No, we had already gone higher at a slower descent from 15,000 and a rapid descent from 17,000, not only we in our institute but also other institutes in Germany had already done this.

Q. And then, of course, the all important problem came up at this discussion in Munich that the inmates of the concentration camps would be used, and now you state Rascher had a letter from Himmler granting him authority to carry out these experiments at the Dachau concentration camp and to use the inmates therein. Would you kindly tell the Tribunal as much as you can remember just what this letter said?

A. I can't say for sure any more now. Rascher read it aloud to me. Roughly it said that the approval in principle for Rascher to carry out the experiments in Dachau was still given and that criminal prisoners were to be used who volunteered.

Q. Did it contain the words "criminal inmates would be used and

that the inmates were to be volunteers"? Did it specifically state that in Himmler's letter?

A. "Criminal inmates" was certainly not in the letter but the word "criminal" was in it.

Q. Was the word "volunteer" in it?

A. Yes, that word was in it.

Q. Go on. What else did the letter contain?

A. I don't believe there was much more in it. There was some notice that other offices were to be informed and then there was the signature.

Q. There was definitely a pardon clause contained in Himmler's letter, was there?

A. Yes, that was in there.

Q. Well now, these experiments that you were conducting were to be in an altitude higher than 12,000 meters, and I call your attention to the fact that Dr. Ruff said that in Berlin they had only gone up to 12,000 meters, that is, prior to the Dachau experiments, so far as his particular research was concerned. Wasn't it a very dangerous situation, one wherein it would be difficult, more than difficult, to receive volunteers?

A First of all, I don't believe Ruff said here that they had gone only to 12,000 meters because he knows very well that we had conducted experiments at higher altitudes at the Institute and that he had participated in them. I don't remember what his precise words were, though. You never know ahead of time how dangerous such experiments are going to be. That was the case, also, with our own experiments. It was a further ascent such as was gradually taking place in aviation regarding speed and altitude and the size of the machines, etc.

Q Well, now, what was the date of this Himmler letter? Do you recall?

A No. I don't know the date. It was certainly in the year 1941, before the conversation.

Q And you were sure that Himmler specified persons to be used to be volunteers?

A Yes.

Q Well, now, who requested Himmler that subjects be set aside for the high altitude experiments?

A These negotiations had taken place before, between Rascher and Himmler. We didn't know the details. Rascher, however, showed us through this letter that he had permission and plenipotentiary powers from Himmler.

Q I see. Well, now let us turn to page 53 of Document Book No. 11, which is Document No. NO-1602-PS--the fifth document in the book. This is a letter from Rascher to Reichsfuehrer SS Heinrich Himmler, dated 15 May 1941. I ask you now to refer to the second paragraph. I will read from it: "For the time being I have been assigned to the Luftgaukommando VII, Munich, for a medical course. During this course, where researches on high-altitude flights play a prominent part (determined by the somewhat higher ceiling of the English fighter planes), considerable regret was expressed at the fact that no tests with human material had yet been possible for us, as such experiments--" Does the interpreter have the letter, Document NO-1602-PS, 53 of the

English. I am starting with the second paragraph.

Do you have the Document Book No. II?

INTERPRETER: The texts don't seem to correspond. If you will read slowly the interpreter will keep along.

MR. HARDY: Well, there only three sentences in the first paragraph. It begins with the fourth sentence. It begins: "For the time being I have been assigned to Luftgaukommando VII, Munich, for a medical course." Do you have it, Mr. Brown.

INTERPRETER: Texts don't correspond in German and English.

MR. HARDY: Well, they corresponded before, Mr. Brown, some three or four months ago. It is obvious that you have the wrong book then.

INTERPRETER: I have 1602-PS, on page 53.

MR. HARDY: That is right...the letter. I will read the entire letter; then maybe it will help you. "1602-PS." Do you have the letter in the German book? "Dear Reichsfuehrer. My sincere thanks for your cordial wishes and flowers on the birth of my second son. This time, too, it is a strong boy, though he has come 3 weeks too early. I will permit myself to send you a picture of both children at the opportune moment."

"For the time being I have been assigned to the--"

THE INTERPRETER: At this point the texts deviate from one another.

MR. HARDY: Well, we will go back to that. Will you please check that immediately? We will go back to that at a later date. It is important that you check it immediately, please.

DR. VORWERK: (Counsel for the defendant Romberg)

Mr. President, in the German Document Book II, page 54, there is in this document, the part that the prosecutor wishes to read is designated as "illegible." In other words, it is not contained in the German document book.

THE PRESIDENT: Counsel, is the photostat of the original available here?

MR. HARDY: No, Your Honor, that is in the hands of the Secretary-General.

THE PRESIDENT: Well, the Secretary-General will please bring to the Prosecution, a part is obviously not contained in the copy of the document book which is in the original. Now, if this part is subsequently to be put in, this would, in effect be submitting a new document. Therefore, I request that the prosecutor be instructed to show us this document twenty-four hours before he wishes to put in in evidence.

MR. HARDY: Of course, in cross-examination I don't have to follow that rule. May I ask the court reporter to kindly read the next sentence after the first paragraph where I stopped reading and it becomes incoherent to read in the next sentence? Pardon me--the German; contained in the German document.

INTERPRETER: In the German book, this is the word --

MR. HARDY: All right, what comes after that -- the first full sentence that corresponds is the sentence in German, and that corresponds in the English document book--about three-eighths of the way down the page: "The experiments are made at Permanent Luftwaffe Testing Station for Altitude Research--" that sentence is in the eight line of the second paragraph.

INTERPRETER: (Reads from German text)

MR. HARDY: I will proceed, Your Honor, and wait for the original exhibit. Of course, in this discussion, Your Honor, the Defense counsel must bear in mind that this document was presented to him--a photostatic copy thereof--and will be the same as the exhibit, whereas the document book may well have that marked "illegible." He has had a photostatic copy of this document--as it is in evidence--since December the 4th 1946.

THE PRESIDENT: The Tribunal is much interested, of course, in the accuracy of these document books. They desire to have that matter carefully checked.

BY MR. HARDY:

Q We will go back to that point, Dr. Romberg;

Now, after Dr. Rascher has exhibited the Himmler letter to you which indicated subjects to be used, must be criminals, and that they must volunteer. Did you after that time positively establish that each subject used was a volunteer?

A You mean later, when the experiments were actually carried out?

Q Yes.

A With the experimental subjects for our experiments—I had talks at some length during the course of time—and they corroborated that.

Q Well, now, you have testified that you used some ten to fifteen experimental subjects in experiments over which you and Ruff had some control. How long did you use these ten to fifteen subjects?

A Throughout the whole course of the experiments; they were available for the experiments and were used in them.

Q In other words, you had those subjects available from—according to your own testimony now—the twenty-second of February until the time that the experiments were completed—which you say was about the twentieth of May?

A Yes.

Q So you had them the whole month of March, April; nearly the whole month of May. That was ten to fifteen subjects. Is that right?

A Yes.

Q Did you talk to each and every one of those ten or fifteen subjects?

A In the course of time I spoke personally with all of these men on all sorts of subjects; on their having been sentence, on what their previous sentences had been, on their position in the camp, and why they had volunteered for the experiments.

Q How many times was each subject of this small group submitted to an experiment—or subjected to an experiment?

A I should say about twenty--for each person.

Q Twenty times each person went through an experiment? Well, now, in the course of nearly three months you subjected each one of these subjects to perhaps twenty experiments apiece. Now, kindly, for the Court record, give us the names of some of these subjects. You must have well known their names after working with them for such a length of time as that. How many names can you remember?

A. There was a man named Rockinger.

Q. Spell, that please.

A. R O C K I N G E R

Q. Do you know his first name?

A. No, I don't

Q. Know where he was from, what his home city was, or anything like that?

A. No, I don't know that now either.

Q. You tell me you experimented on a man twenty times and you don't even know his first name, don't know where he is from, or anything about him?

A. We didn't talk about each other's first names nor about these details. It is possible that I did find out then where he came from and what his first name was, but I have forgotten it by now.

Q. Well now, can you give us the names of any of the others? It shouldn't be too difficult. I think I could remember the names of ten or fifteen men I worked with for such a time as that, on such an important problem.

A. There was a man named Sobotta.

Q. Spell that, please.

A. S O B O T T A.

Q. Can you give us any further information about him?

A. Sobotta occupied a special position there, because he was the man who went through the most experiments, and at the same time had a sort of superior position inside that group, and I think Sobotta was the man I talked with most of all. Consequently, I can say regarding him that he was a safecracker. He broke into a large Austrian State bank, among other things, and, so far as I know, he was an Austrian.

Q. Well now, do you know the names of any of the others?

Q. Well now, do you know the names of any of the others?

A. Yes, I remember a man Kloos and the name Sozlak or something like that. Kloos is spelled K L O or O O S, and the other, Z O S L A K, or something of that sort, I don't know that for sure either.

Q. Well now, don't you know any particulars about these men? It seems to me that you quite frequently, in the course of the experiments, after the men were unconscious and after they came to, you would ask them questions like the delicatessen dealer. It would seem to me that you would have gained more information about these men than you have during the course of the experiments. Don't you have more information about them to give us so that perhaps we can find them? Do you know where they are?

A. No, I have no idea.

Q. Did any of them survive the experiments?

A. All survived the experiments. The witness Vieweg has corroborated that among others.

Q. And they were volunteers?

A. Yes.

Q. Yet you haven't found any of them and brought them here before this Tribunal?

A. How am I to find these men when I am interned?

Q. Your defense counsel could well put out a notice and look for them. If we could get the information, perhaps we could find them. Perhaps you can remember the first name of Sobotta? Do you remember that? This is the man you talked to the most.

A. No.

Q. Don't remember him?

A. No.

Q. Thank you.

A. I certainly don't remember his first name.

Q. Now, what was the reward that these volunteers were to get for being subjected to the experiment?

A. What they actually received as a reward, I don't know for sure. I know only from the documents here that Sobotta was released, and I know that he had theretofore been promised that he would be pardoned and that Himmler had personally verified this when he paid his visit there. Then Himmler, when the report was made at the conclusion of the experiments, said it again, and Rascher also said that they were to be set at liberty.

Q. Do you remember the name Sobotta from these documents, or did you remember it from your conversations with him?

A. I remembered it from our conversations. Particularly, because a University professor at Bonn had the same name and that is why this rather unusual name stayed in my memory.

Q. Well, of course, when you remembered the professor at Bonn with the same name, you must certainly have asked the fellow "Are you any relation to him?" That is a likely question, wouldn't it be?

A. I don't know whether I asked that or not. In principle, the fact that a University professor should be a relative of a safecracker is not too probable, but maybe I did ask him, it is possible.

Q. You didn't find out from that course of questioning whether or not the fellow came from Munich, Berlin, France or there, did you?

A. As I have said, in the case of Sobotta, I assume that he was an Austrian.

Q. Well now, I have assumed here all along that you were perhaps a thoughtful physician and apparently a very conscientious research worker. It seems most unusual that a man of your caliber didn't have enough interest in the people that he was subjecting to experiments to have more information about them than you have. Didn't you care? You say, you tell us here, that you asked them whether they were volunteers. Did you just say: "Are you volunteering", and not ask them any further questions? You weren't interested? It seems strange for a physician not to be interested in some of the background of the people that he is subjecting to experiments. Even Dr. Ding knew some of the people that he was using in his experiments in Buchenwald.

A. As I said, I did talk with these people. Moreover since I associated with them for two or three months during these experiments and put them in the experiments and saw what they had to do, there is no doubt in my mind at all that they were volunteers. When I asked them questions, I didn't ask them in a critical spirit because I had any mistrust of them, but these questions I asked simply occurred in the course of the conversations I had with them.

Q. Well now, Doctor, Walter Hoff's job there was more or less taking care of these experimental subjects, wasn't it? Wasn't he the block elder?

A. Hoff was the block elder for this group, yes.

Q. Well now, he was in a position to know more about these experimental subjects than you, wasn't he? He perhaps had a card index file on them.

A. No, I don't believe he had a card index file.

Q. Well, he knew more about them than you did, didn't he? He lived with them. He was another inmate.

A. That's possible. I don't know how well he had known them before or how well he made friends with them. That, of course, I can't judge.

Q. However, you would be willing to admit that perhaps his testimony concerning these subjects is more reliable than yours?

A. I can't judge as to the reliability of Neff's testimony. I just don't know.

Q. Well now, these ten or fifteen - Neff referred to them as "exhibitionists" or "exhibition subjects". Do you recall that?

A. It was Vieweg who used that term for the first time here -- "exhibition subjects."

Q. Well now, Neff stated that ten inmates had volunteered, didn't he?

A. Yes.

Q. As a matter of fact, he stated, that's on page 614 of the record, Your Honor. Well now, he also stated that only one of the subjects used in the experiments was released, didn't he?

A. Yes, that's what he said.

Q. The documents support his testimony, don't they?

A. Regarding Sobotta, he is specifically mentioned for pardon in Brandt's letter or Rascher's.

Q. Well now, do you recall Neff stating here that he remembers the first days of the experiments when they had the first series of experiments, and that he stated that Ruff and yourself were present? Do you recall that?

A. First, he said that Ruff was present on the first day in Luftwaffe uniform. Later, he corrected himself and said he was not in Luftwaffe uniform, and it wasn't on the first day either. Rather, he was in civilian clothes and it was a couple of weeks later.

Q. Well now, tell me, in these first series of experiments did you use those ten or fifteen men that you had at your disposal?

A. Yes.

Q. Page 622 of the record - Walter Neff, a man who lived with these gentlemen, who was the clock eldest, who knew who was going in and out of the low pressure chamber, stated that no deaths had occurred in this first series on that day, but this first series of experiments was not carried out on the volunteers? Do you remember that?

A. Neff said here that all those ten or fifteen men were not volunteers at all. I remember that very definitely, and he also said that there were no fatalities. Not during the first few days, but I think he said during the first few weeks.

Q. He also said that those volunteers were political prisoners, didn't he?

A. Neff said here that all sorts of people were there - all classes or strata that you can imagine.

Q. Well now, when you made your plea or Rascher made his plea to secure the volunteers for these experiments, what form or in what manner did he appeal to the inmates of the Dachau concentration camps?

A. Just how he did this I don't know. This was not done by Rascher, but by the Camp Commander on the basis of the discussion of Rascher's letter and the information given by the Adjutant Schnitzler, from Munich, who was present at the discussion. As far as I know the people were asked at the roll call who wanted to volunteer and then a great number of volunteers ---

Q. Now, you say roll call, do you mean roll call of only habitual criminals or criminals condemned to death because you only used criminals in these experiments, or did the roll call consist of all sorts of prisoners, political prisoners and everyone else?

A. Just how the roll call works I don't know, or whether a specific group was established a priori.

Q. You actually don't know very much about this, do you?

A. I had nothing to do with selecting them. There was a clear cut agreement with the camp commander which had been reached during this discussion. He had said that we would find enough, and told Rascher that he could pick the people who were physically qualified for the experiments.

Q. Now, what did you offer them as an inducement to undergo these experiments; that was the inducement, wasn't it, offering them a pardon if they successfully underwent the experiments?

A. I didn't offer them a pardon. I wasn't in a position to do that.

Q. You must have insisted before you worked on them that they were to be pardoned, that is the gist of the testimony, you would not use men who at least were not offered a pardon after you had experimented on them, would you? I am sure you wouldn't, would you, Doctor?

A. That was a clear cut statement, also that the people should be pardoned and that their sentences should be reduced. This was not simply a theory, but was set down in writing, and Himmler had

made the same promise when he was there.

Of course, Himmler's idea about pardoning these men wasn't as conclusive as you stated, was it? You state in the original Himmler letter that Himmler was in favor of pardoning all the habitual criminals that were subjected to these experiments; now, did Himmler have a change of heart and later withdraw that promise, or what happened?

A. He didn't take anything back, at least I didn't know it if he did, but of course, I can't check whether or not he kept his promise. I can't force a man like Himmler to keep his word, more over at that time I had no reason to believe that this was a promise that was not to be kept.

Q. Well, now, when these volunteers, so to speak, did volunteer, were they warned of the hazards of the experiment?

A. They were not just 'so-called' and I can say that they were really volunteers. I told them what the point of these experiments was, what they had to do, what they had to particularly take care of, and just what their active participation as experimental subjects was to be.

Q. Well, now, you must have told them that these experiments, gentlemen, you are going to go through are painless and they won't be harmful at all, you may go through some distortions, however, at that time you may be unconscious. When you wake up you won't realize you have gone through experiments; there is no danger of death, and that the purpose of this experiment is to benefit the German aviators, something to that effect; you must have said something similar to that to them?

A. Something similar, not in detail as you have said it.

Q. I should think you would have done it more in detail than I have, because I am no expert on that subject as you are?

A. I have already explained to them what altitude sickness is, explained what that they would become unconscious and this was the

most important point, after waking up so far as they are clear in their minds they should pull the parachute release. That was the most important thing, of course, and I also know very certainly I also told them that these were experiments in which nothing would happen as far as man's judgment goes.

Q. In other words, you impressed upon them that these experiments were harmless?

A. I told them that to the best of our ability we would see to it that nothing happened to them. I also told them there was a certain risk involved which could not be precisely calculated, but so far as the physicians were concerned they would see to it that nothing happened to these people.

Q. Well, now, Doctor, if that was the case, in the course of these high altitude experiments why was it necessary to use habitual criminals and criminals condemned to death; in other words, why was it necessary to offer that particular group of individuals an inducement to undergo such harmless experiment; why couldn't you as well call in the political prisoners and have said, "Gentlemen, we have an experimental program here", and explain to them how harmless the experiment is, and "if you will undergo the experiment we will give you one more loaf of bread than you are getting or one more piece of sausage a day, which giving to them would be quite an inducement, whereas you used criminals, which as you say were justifiably placed in concentration camps and were a menace to the public, because they were criminals, and now you are going to subject them to a perfectly harmless experiment and allow them to go out into the public and commit some more crime; it doesn't seem logical if it is a harmless experiment; there must be some danger to it?

A. As to what group of subjects were to be chosen as experimental subjects I had no influence. Himmler as Reichsfuehrer SS and Chief of Police issued the directive. We had no influence on that. That is

true of the case of doctors all over the World, the doctor doesn't choose the people, the State does?

A. That is right. I am going to refer to it. I hope this is in order so we can read it, page 62, Document Book 2, Document 1971-PS. This is the Himmler letter to Rascher in answer to Rascher when Rascher sent in these preliminary reports. This is where Himmler says they shall be pardoned to a concentration camp for life. This is dated 13 April 1942.

"Dear Dr. Rascher :

I want to answer your letter with which you sent me your reports.

"Especially the latest discoveries made in your experiments have interested me. May I ask you now the following:

"1. This experiment is to be repeated on other men condemned to death.

"2. I would like Dr. Fahrenkamp to be taken into consultation on these experiments.

"3. Considering the long continued exploited in such a manner as to determine whether these men could be recalled to life. Should such an experiment succeed, then, of course, the person condemned to death shall be pardoned to concentration camp for life."

That was pretty white of him, wasn't it? That is quite a pardon to give a man, isn't it? After you practically kill him you can recall his life and if you are successful in recalling him to life then we will pardon him not to go scott free, but to a concentration camp for life, that being all the evidence we have of pardon from Himmler, isn't it?

A. I did not make the experiments. I did not get the orders from Himmler to carry them out.

Q. You firmly indicated the attitude Heinrich Himmler had as to pardoning concentration camp inmates who had been condemned to

death; he doesn't even mention habitual criminals who have not been condemned to death, that is his attitude. I think it is exemplary, isn't it?

A. I don't know just what the general procedure was with pardons in such cases as this. In general people condemned to death are happy if they are pardoned just as long as they don't die; now whether a person condemned to death could be set scott free I don't know, I can't judge. However, this was Himmler's directive. It was sent to the necessary offices, to the Chief of the Sipo, Gluecks, and so forth, and here it says people condemned to death are to be pardoned to concentration camp for life.

Q. Now, in the course of your experiments you only used so you and Ruff say, from 10 to 15 experimental subjects, all volunteers. Was it made clear to this group of experimental subjects, that is the one in the Rascher experiments and the one in the Ruff-Romberg experiments, and according to Ruff that numbers in the hundreds and up to 80 were killed eventually in high altitude experiments. Now, was it made clear to these subjects when they volunteered for experiments what they were volunteering for; did the subject know whether or not he was volunteering for the Ruff-Romberg or Rascher experiment, or merely for the Rascher experiment; how did he know when he got into the experimental chamber who was going to work on him, how did he know that?

A. Our men lived at the station and carried on the experiments continuously, and I told them exactly what experiments were to be carried out and to what purpose they served. The other experimental subjects whom Rascher used, I had nothing to do with. Neff says they were brought to the station with SS guards of some sort and that Rascher then carried out the experiments with them.

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Q Well now, Doctor, each and every time an experimental subject entered the low pressure chamber, did you look at him and make sure he was one of your ten or fifteen?

A If these were my experiments, then I usually called the people myself in person, and said whose turn it was. I had a list to see that the experiments were evenly divided among the experimental subjects.

Q Well, you took a list; what did you call them; numbers one, two, three, four, five, six, seven, eight, nine, ten; or did you call them by names?

A The names were there.

Q You only remember three names and you used to call them by name?

A I remember four names.

Q Four out fifteen and you used to call these men by name and make sure, one would not have twenty times in the chamber and the other five; you wanted them to file in evenly, yet you can remember only four names of such an important project.

A That was five years ago and I carried out so many experiments during that time at Dachau and was in the office too, I cannot tell you the names of the people at the institute either.

Q Yet, whenever a person entered that experimental chamber, you know whether or not it was one of your men?

A Yes, I knew that.

Q And you checked up each and every test on these individuals and made sure that a wringer was not wrong in on you; did you?

A I knew who these men were.

Q Well now, what is your moral attitude, Dr. Remberg, as to the capacity of a prisoner or a person incarcerated to volunteer for an experiment? You have heard here at this Tribunal, some say that a prisoner could not volunteer for anything, some think he could and some think he was coerced. What ever the situation may be, what is your attitude concerning the capacity of a person incarcerated to volunteer for a medical experiment.

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A May I go into this in some detail?

Q Certainly.

A First we must discriminate in principle between what the state does and what the Doctor does. That the state can take criminals condemned to death and make them available for experiments and does so.....

Q Doctor, just a moment. Please, before you go into the attitude of the state and the doctor, let us go into this phase, whether or not a person incarcerated in prison can himself, of his own violation, volunteer for an experiment, regardless of state laws or of doctors. Do you think when a warden of a prison or a concentration camp commandant comes up to an inmates and says, "Will you volunteer for this experiment?" do you think he conscientiously volunteers; what is your attitude on that? You have heard it in the courtroom, you have heard three or four versions; now I want to hear your version.

A Yes of course. It is my view that we must discriminate between the philosophical freedom of determination and actual freedom of determination. The philosophical freedom of determination, I don't know anything, nor does anyone else know of freedom determination. When we arrive at a decision, there is no such thing as philosophical freedom. The person, of course, is also not free in the use of his will, but on the other hand, he is completely free in his choice between the various possibilities that he is confronted with.

For instance, if a man is condemned to death, he goes back to his cell and finds a letter saying that if he volunteers for an experiment that is dangerous to life, he will be pardoned. You don't have to issue an order for him to do this. He is perfectly free to accept his death sentence or to go through the experiment. This is, of course, an extreme example.

Another example is a man sentenced to a long term who volunteers for malaria experiments, he is asked also, if he wants to volunteer and he can make a perfectly free choice. He is condemned to ten years imprisonment, he has the choice, does he want to accept the future of

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malaria, or ten years in prison. With in this possibility, he is perfectly free in his decision. That the situation exercises certain coercion on him, is quite clear. That is nothing unusual as far as the doctor is concerned. I have already said that the state apparently recognized the fact that a person can volunteer, because all over the world it has given prisoners a chance to volunteer.

The second question is what is the doctor's position? He always says the state is the law and secondly, the doctor is perhaps more accustomed to formulating a decision, when there is a coercion element in the situation than other people. He is inclined to regard such conditions as voluntary conditions. For example, decisions for women in child delivery are made in event of a caesarean operation. The doctor does not arrive at that decision because he wants to, but because the situation makes it necessary. He has to confront himself with the problem, perhaps if I should let it be a natural birth it will be successful and perhaps not. He has to draw his own conclusions in this situation. Perhaps if a person is wounded and says I was asked at that time whether I wanted my arm to be amputated or not and I said I don't want it to be amputated and you can see now I have my arm. Undoubtedly there are such cases. The doctor has to say honestly to the patient that in his knowledge and to the best of his knowledge your life is in danger, if we don't amputate this arm. Now, make up your mind, if we don't amputate, you are in great danger, if we amputate you are bound to recover, but you won't have one arm. Now, from the tale told by this man, who did not permit the amputation, we know that, and there are some people who desire to let the amputation take place and some people who desire not to, they are in a situation, where by fate they are under coercion. Fate has placed them in this situation, and it is one which the doctor is more familiar with, because again and again comes upon such patients.

THE PRESIDENT: Counsel, we will suspend the examination at this time for a moment. The Tribunal would like to examine German Document

Book 2. Will counsel hand a copy to the Tribunal?

MR. HARDY: I will check my files on this Document. It may be that one of the photostats are missing.

THE PRESIDENT: The Tribunal desires to examine that Document book.

JUDGE SEBRING: Mr. Hardy, would not the official text of the document, as it appears in the record of the International Military Tribunal Trial disclose the status of this.

MR. HARDY: That may not have been used before the I.M.T., I am not sure, Your Honor. It has an I.M.T. number, I don't know, whether it was used or not, can you ascertain that?

JUDGE SEBRING: They quote on the Niebergall affidavit here, "I certify that Document No. 1602-PS was introduced into evidence as Exhibit No. U.S.A. 454 in the Trial by the International Military Tribunal of Hermann Goering, et al."

MR. HARDY: I will check the original in the I.M.T. file.

JUDGE SEBRING: U.S.A. 454.

THE PRESIDENT: This document, as it appears in the German document book, varies greatly. There is more text in the German than in the English document book. They do not correspond. Now the photostat as returned here manifestly, contains much more text than appears in the English document book. The English opens with a short paragraph of four lines, then follows a long paragraph and then two very short paragraphs. Now the photostat shows either three very long paragraphs or two long ones and two short ones. Now, the certificate, attached to this document in the English document book, certified that the English translation is a true and correct translation of the original document, which it manifestly is not. The first page of the photostat shows double printing, what happened, I cannot tell, the double printing is there together with a white blur, which makes part of it illegible. Now this document, according to the certificate attached thereto, was admitted before the International Military Tribunal.

MR. HARDY: It appears there are obviously two different documents, your Honor, I will have it checked in my files and the files of the International Military Tribunal and I will try to report on it at 1:30 if I can do that.

THE PRESIDENT: The Tribunal is much interested and is quite dissatisfied that we have in our document book a manifestly incorrect translation of an important document, together with a certification that it is true and correct.

MR. HARDY: It is surprising to me that this was not noticed as this document was placed in its entirety into the record.

THE PRESIDENT: This is a peculiar circumstance, the Tribunal is confronted with. I will return the German document and original photostat and counsel will make an investigation of the result.

The Tribunal will be in recess until 1:30 o'clock.

(A recess was taken.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 2 May 1947.)

THE MARSHAL: The Tribunal is again in session.

HANS ROEMER - Resumed

MR. HARDY: May it please Your Honor, at this time I would like to clarify the difficulty with Document NO 1602-PS. It seems that this document exists in better condition than the photostat originally put in as an exhibit, and contains the paragraph that I was about to read from the English translation. Now, when this was introduced before the International Military Tribunal, the International Military Tribunal prosecution saw fit to only introduce the pertinent sections to their case, namely, the first paragraph, the third paragraph, and the last two paragraphs, and they had what they referred to as a partial translation of the document and indicated it was a partial translation by so heading it "Partial Translation of Document 1602-PS" and indicated the blank spaces by dots.

Now, what happened when our document book was put together. The prosecution here desired to use the same document and only the same portions thereof that had been used before the IMT and, apparently when they re-translated the document or recut the stencil and certified it by a different individual, they inadvertently didn't indicate that this was a partial translation and, by the same token, the document that went in was one that was hazy and they could not read it, so when they cut the stencils for the German copy the German copy had the hazy one to go by and were unable to include these words.

Now I will pass this good copy of the original exhibit up to you for your perusal, as well as the type of translation that went in before the IMT, and I only want to use the portion that was used at

which is contained in our document book number 2 in the same manner.

THE PRESIDENT: What paragraphs?

MR. HARDY: The paragraph is the first paragraph - now this is of



our document book now, the translation we have now I want to use it as is. Put it is paragraph number 1 in the German - number 2 and 3, in the German, and then the last two brief paragraphs in German before where the signature appears of Rascher. And you will note the copies as such. I have here another mimeographed German copy, two copies of it, that contain it in the same manner as this here, that I just received that I can give the defense counsel for their use. I will have other mimeographed copies of the German cut and deliver it to them later. I want to pass this up.

THE PRESIDENT: Have you a complete translation of the document?

MR. HARDY: The prosecution didn't see fit to translate the document in its entirety because of the immateriality of the other paragraphs. If Your Honor requests it, we will have it.

THE PRESIDENT: As long as this confusion has occurred, the Tribunal desires the entire document translated---

MR. HARDY: Yes, Your Honor.

THE PRESIDENT: ---furnished to German counsel and to the Tribunal.

MR. HARDY: Thank you.

THE PRESIDENT: Then there will be no question but what counsel for both sides have the entire document before them.

MR. HARDY: Thank you, Your Honor.

THE PRESIDENT: Counsel, I notice also the stenographic notes there. If those could be translated, have them also, if they can be read. I don't know whether they can or not.

MR. HARDY: Yes, Your Honor.

DR. VORWERK: Mr. President, I object to the submission of this document for the following reasons. This document was submitted by the prosecution before. It has been ascertained that within this document there is a discrepancy between the version in the English document text and the version in the German document text. The German text says "illegible" while the English text contains this portion of the document. I should like to state that if a document is illegible for the

purpose of copying it must also be illegible for the purpose of translation, which apparently was not the case. Is this document now being submitted to complete the previous submission, or is this a completely new document?

MR. HARDY: Your Honor, that is a very simple hurdle due to the confusion, then I will offer this as cross examination document and assign it the same number that it has now and use it here now, the paragraph, in the same manner as if we were introducing a new document.

JUDGE SEBRING: Mr. Hardy.

MR. HARDY: Yes, Your Honor.

JUDGE SEBRING: You say that this photostatic copy which has now been furnished the Tribunal is a correct photostatic copy of the original?

MR. HARDY: That is right.

JUDGE SEBRING: May we not meet the objections then by having the interpreters who are here in the courtroom read this document, translating it as they go and read it into the record?

MR. HARDY: That would be perfectly suitable, Your Honor. Do you mean the document in its entirety?

DR. VORWERK: I believe I understand the prosecutor correctly if I believe that this document NO 1602-PS is withdrawn as the original document and he now wants to submit it as a document for cross examination.

MR. HARDY: It is immaterial the manner in which I do it, Your Honor. I don't think the objection here has any basis.

THE PRESIDENT: Well, counsel, the Tribunal now has before it a good clear photostat of the entire document in German. If the translators will now read that document, and it will be of course translated into English for the record, will that satisfy you? Will that be a satisfactory solution for you? The entire document then will be read into the record. You may examine the photostat of the entire document in the German language.

MR. HARDY: He has a copy of it in the German language, Your Honor,

mimeographed.

THE PRESIDENT: A copy of the entire document?

MR. HARDY: Yes, Your Honor.

THE PRESIDENT: Is that a satisfactory procedure to you?

DR. VORWERK: Mr. President, the point is whether this document is to be submitted merely for identification, for cross examination of the defendant, or whether it is submitted as a document and is accepted by the Court as a document exhibit. In the latter case it would have to be given to me 24 hours beforehand.

THE PRESIDENT: I am not impressed with that objection. That is the general rule but unless counsel shows some good reason why in this instance the rule should be enforced, the matter coming up, the Tribunal would not be inclined to cause delay and confusion by simply waiting 24 hours for you to read what you can read now. It is an unfortunate error but there was nothing intentional about ^{it.} The employee who copied the document simply neglected to state that it was a partial copy instead of a complete copy and that man, the person who certified to it to be a true copy, also neglected to state that it was not a complete copy but a translation merely of a portion of the document. In other words, those who prepared this document, the stencils for the English document book, simply copied the sheet which was in the record as it was introduced before the International Tribunal. It was a careless mistake but it is easy to see how it could have happened.

DR. VORWERK: Then I will consider the suggestion of the President acceptable.

MR. HARDY: Now is it my understanding, your Honors, you want the interpreters to read the German and translate it here into the record?

THE PRESIDENT: I don't think that is necessary. I think if the counsel for the prosecution has the entire document translated into English and stencils are cut and counsel receives a mimeographed copy, counsel for the prosecution may now examine the witness as to the portion of the document which he desires. I can see no reason for an objection. It will do no harm to the defendant. You see that this document will be furnished in a completed form to the defense counsel as soon as possible.

MR. HARDY: In order to do that I request of the Secretary General that the Prosecution be permitted to retain this document Exhibit 44 in its possession until we may check it for safe-keeping.

THE PRESIDENT: I assume that the document will be available in its complete form by Monday?

MR. HARDY: I hope so.

BY MR. HARDY:

Q. Now, Dr. Romberg, you have stated here that Mr. Rascher exhibited to you a letter at this conference in Munich, concerning the fact that Himmler ordered these experimental subjects must be volunteers. Now I want to read you this portion of this document, which incited this alleged Himmler letter. I will start with the third paragraph of the German which reads as follows:

"For the time being I have been assigned to the Luftgaukommando VII, Munich, for a medical course. During this course, where researches on high altitude flights

play a prominent part (determined by the somewhat higher ceiling of the English fighter planes), considerable regret was expressed at the fact that no tests with human material had yet been possible for us, as such experiments are very dangerous and nobody volunteers for them. I put, therefore, the serious question: can you make available two or three professional criminals for these experiments? The experiments are made at permanent Luftwaffe Testing Station for Altitude Research, Munich. The experiments, from which the subjects can, of course, die would take place with my cooperation. They are essential for researches on high altitude flight and cannot be carried out, as has been tried with monkeys, who offer entirely different test-conditions. I have had a very confidential talk with a representative of the air forces surgeon who makes these experiments. He is also of the opinion that the question could only be solved by experiments on human persons."

And then the signature of Rascher appears on the document. Now, do you still maintain that after receiving that letter Himmler says you will use volunteers?

A. In my opinion there is very little connection. This letter is very old. It is dated 15 May, 1941. It obviously records Rascher's first ideas in this direction about experiments. It says, for example, that no experiments could be performed with human beings, yet, and there is proof against this in the work done in our institutes, where many doctors and their associates volunteered for experiments up to at least 17 kilometers, but it is much higher than the ceiling of the fighter planes presently in use mentioned here.

Q. Now, Dr. Ruff, states that Dr. Weltz and all of

these people arrived at that conclusion, they wished to experiment on the Dachau concentration camp inmates early in 1941. Now isn't this the beginning?

A. That they wanted such experiments in 1941? No, nothing was said about that?

Q. No this is the beginning. Now they are just starting and ask Himmler to find criminals for these experiments simply because nobody will volunteer for them. In other words, if they could have got volunteers they wouldn't have had to resort to Dachau concentration camp inmates, very simple.

A. Not I asked Himmler, but Rascher asked Himmler.

Q. That is right. That is what I am talking about, Rascher asked Himmler?

A. And what he says here is incorrect in many respects. He says no experiments have been performed, that is not true, and the suggestion to use feeble minded people which he makes is absolutely worthless. Mr. Ruff has already spoken about that.

Q. Now let's go to the next letter in that document book. You may return that document. It is on page 54 of the document book 2. Unfortunately this document doesn't contain a date. However it states:

"Dear Dr. Rascher:

Shortly before flying to Oslo, the Reichsfuehrer SS gave me your letter of 15 May 1941, for partial reply.

"I can inform you that prisoners will, of course, be gladly made available for the high flight researches. I have informed the Chief of the Security Police of this agreement of the Reichsfuehrer SS, and requested that the competent official be instructed to get in touch with you."

That is initialed Rudolf Brandt. Now this is the letter which gave Mr. Rascher the authority to use concentration camp inmates, is it not? Isn't it authority to use prisoners for the experiments, and that the particulars will be outlined by the Chief of the Security Police, doesn't it say that?

A. That is an agreement of the Reichsfuehrer to this first suggestion of Rascher of May, 1941, but no details are set forth.

Q. That is right. It is an agreement to allow Rascher to experiment at Dachau or at any concentration camp, and to get prisoners therefrom, because of the fact Rascher stated in the letter which incited this answer that he couldn't get volunteers for such a program, isn't that what these two letters convey to us?

A. Dr. Rascher had to deal further with this problem. There was no doubt further correspondence.

Q. But you don't know that, do you? You don't know that? You are assuming that?

A. No, I don't know what correspondence there was.

Q. Your only answer to it is an imagineable letter from Himmler stating they must have volunteers, isn't that it?

A. I do not see that. I stated there was a letter from Himmler.

Q. We don't have it here. I just assume if there was such a letter we would have it here. We have most of them talking about selecting and setting aside experimental subjects, and Himmler then in that letter from Rudolf Brandt and his other letters talked about persons who were condemned to death, if he successfully lived through the experiment, or whereas he was recalled to life,

he may be pardoned to the concentration camp for life, yet in all of these letters Mr. Himmler never mentions that they must be volunteers. This is not present in any one of the documents in this case.

A. There aren't very many letters on it. This letter for example says nothing about pardoning, and Himmler mentioned that in a letter.

Q. And perhaps that is the first time he mentioned it. I don't think we should dwell about that any more. Let's go on to another subject.

Now concerning the low pressure chamber, when Ruff sent this low pressure chamber from his institute in Dachau, did you accompany the drivers from Berlin to Munich with the chamber?

A. Whether I went with them? No.

Q. After the chamber arrived in Dachau, according to the testimony of Ruff, I believe, you assisted in assembling the chamber so that it would be in its proper form and useable, is that correct?

A. After the chamber arrived in Dachau, I went out to Dachau together with Rascher and Rascher gave the instructions what had to be done, an electric connection had to be laid and what else was necessary to use the chamber.

Q. Well, did you arrive at the same time the chamber arrived or did you arrive at some later date?

A. I arrived in Dachau with Rascher when the chamber was already there.

Q. Well now, to clarify things, we want to get these things straight in mind. When did the experiments begin?

A. The first beginning was actually on the 22nd and 23rd of February.

Q. When did you make up your mind that was the date when the experiments began?

A. They were supposed to begin on that day but I don't know whether any experiments were actually carried out on that day. At any rate they were stopped almost immediately.

Q. You were there on the 22nd of February, you said that on direct examination, if you remember?

A. Yes, I was there on the 22nd or the 23rd, yes.

Q. When did you suddenly discover you were at Dachau on the 22nd day of February? When did you remember that, or have you always remembered you were in Dachau on the 22nd day of February?

A. No, I just remembered that and here when Neff in his examination told about this, that we watched his birthday table, then I remembered that fact, and also I know I must have been there on that day and the next day because I can remember the birthday table.

Q. Well didn't you make an attempt here to impeach the credibility of Walter Neff in stating you were not in Dachau on February 22nd? Defense counsel here made an issue of that, that you were not there, and now do you decide that the testimony of Walter Neff was quite credible?

A. My defense counsel didn't do that. I believe that was Dr. Seuter.

Q. That is correct. It was Dr. Sauter, and I will read it to you, Page 657 of the record: "Q. (By Dr. Sauter) I should like to put something else to you. Dr. Rosenberg, will tell you under oath that he on the 22nd of February, 1942, the date you mentioned yesterday, was not present, and he knows that exactly for the following reason, and I am telling you this in order to enable you to refresh your memory. The family Rosenberg had expected the birth of a child on the 9th of March, and for that reason Dr. Rosenberg stayed at home until the 9th of March with his wife, and it was only on the 10th of March 1942 that he went to Dachau." Now, Dr. Sauter is an honorable man. You told him under oath that you were never there at that time. What made you change your mind?

A. Of course, I never told Dr. Sauter that I would testify under oath that on the 22nd of February I was not in Dachau. I only told Ruff I know very well that I was in Berlin on the 9th of March because I was expecting the birth of the child at that time. That Dr. Sauter interpreted that, that because I know for sure that I was in Berlin on the 9th of March I must not have been in Dachau on the 22nd of February, I had nothing to do with that.

Q. I don't want to get into a discussion of whether or not you misled Dr. Sauter, but he seemed to be quite emphatic about the fact that you would testify under oath, and I would be willing to consider that Dr. Sauter thought that, too. As a matter of fact, I wouldn't think Dr. Sauter would say such a thing unless you had either told him or unless he reasonably believed that that was what you told Ruff. Be that as it may, we will go on. On February 22, 1942, the experiments began; is that correct?

A. I can't tell you exactly whether any experiments were performed or not. That was a Sunday. Probably we didn't do any work on that day, but we broke off the experiments immediately, and postponed them until the beginning of March.

Q. Until the beginning of March. Now, how many series of experiments did you have? Four, wasn't it? Four series, so to speak? You had four different copies in your report?

A. Yes.

Q. How long did it take you to complete each series of experiments?

A. I can't say exactly in detail. Sometimes they were going on at the same time, not one after the other, but they were carried out parallel. Until all four series were concluded, it took until about the 19th or 20th of May.

Q. Now, when did the first death occur?

A. That must have been the end of April.

Q. That was the end of April? End of April. Then almost immediately thereafter you returned to Berlin, didn't you, after that death episode?

A. Yes.

Q. And how long did you remain in Berlin?

A. I didn't stay long at first. I went back again, as far as I recall, and then there was the incident with the barometer, so that...

Q. Now, just a moment. We will get to that. After you went to Berlin the first time, that is, after the death, the death happened about the end of April, then you went to Berlin. Then when you returned, as I understand it, you witnessed another one or two deaths, is that right? That was before the barometer incident; is that right?

A. No, the barometer incident must have been right after I returned from Berlin after Dachau.

Q. The barometer incident was after you returned to Dachau, that is, after the first death. That is the barometer incident. All right. Now, after the barometer incident, that must have been now almost the first of May, wasn't it? The barometer incident? You must have stayed in Berlin a week or better.

A. It took quite some while to have the barometer repaired.

Q. How long did you stay in Berlin after the first death and until the time you returned and found the barometer broken?

A. Only a few days.

Q. Well, how many days? Can't you be a little more specific, two, three, four, five, six?

A. After I returned from reporting the death, perhaps four, five days.

Q. All right. Four, five days. That takes you nearly to the first of May when the barometer was broken, is that right? Almost the first of May.

A. It could be about that time.

Q. And now when did the second and third death occur?

A. That was later, after I came back with the repaired barometer.

Q. How long did it take to secure the barometer? About two weeks?

A. Of course, I don't know exactly. I don't think it took quite two weeks. It wouldn't have taken that long.

Q. Well, we will say it took about a week. That will bring us up to the 7th of May, wouldn't it? Then the two deaths occurred after you got back from Berlin with the barometer, isn't that right?

A. Yes.

Q. And they occurred how long after that time? When you came back with the barometer, I assume you used the pressure chamber before Rascher did. I assume you carried on some of your work before Rascher did, and then the two deaths occurred. Now, it must have been a period of a week or two weeks, or something like that, wasn't it?

A. I am sure that after I came back with the barometer I performed some experiments. I was trying to get our experiments finished.

Q. Well now then how long before the completion of your experiments did the deaths occur? The two deaths.

A. About a week before the end of the experiments.

Q. About a week. You are crowding that in pretty closely now. Think hard. About a week, is that right? The death didn't occur almost a month before the conclusion of the experiments, did it?

A. No, that is about right for the first death.

Q. All right.. Then, on the 20th Day of May the pressure chamber left Dachau and went back to Berlin, is that what you wish to tell us?

A. Yes.

Q. It did. Well, now, after you got the pressure chamber back at Berlin were you there when it got back to Berlin?

A. Yes, I was in Berlin, too.

Q. How badly smashed up was it when it got back to Berlin, or was it in good order?

A. When it came back to Berlin there was nothing broken.

Q. It was in usable form?

A. Yes.

Q. Now we are going into Mr. Neff's testimony. Do you recall that Mr. Neff stated that he sabotaged the chamber at Dachau? Do you recall that?

A. Yes, I remember that.

Q. And now you come along and state that the barometer was broken when you returned from Berlin, which more or less corroborates the testimony of Mr. Neff that the chamber had been damaged, doesn't it?

A. Yes.

Q. Then Mr. Neff stated that you went to Berlin to get spare parts to repair the barometer, or the pressure chamber, and that it took you nearly two weeks, he stated, to get the parts, isn't that right? That is what Neff told us.

A. Yes, that is about what he said.

Q. Then by that token he said that was the reason why experiments were still going on in the month of June, isn't that right?

A. Yes. He even said that they lasted till the beginning of July.

Q. That's right. Well now, here we have a strange thing. Defendant Ruff Document Book, this is Exhibit 10, Document No. 6, in the Document Book Ruff No. 1, which is the affidavit of Dr. Max Matthes. On page 22 of the Ruff Document Book, the second paragraph, Dr. Matthes says as follows: "Only at the time of my conversations with Dr. Rosenberg, did I also learn that a low pressure chamber had come back from Dachau. According to my recollection, the low pressure chamber must have come back to the Institute in May, 1942. I can remember the date because after the return of the low pressure chamber I was ordered by Dr. Ruff to take a trip to Cologne in order to procure spare parts. I made this trip, and on that occasion I was in my home town of Bonn. That was in the time from 1 June to 10 June, 1942, so that the low pressure chamber must have been returned to the Institute in May, 1942." Now, here is a representative of Ruff's getting spare parts between the dates 1 June and 10 June to repair a low pressure chamber, and you recall that Mr. Hoff said that he sabotaged the chamber in the latter part of May, and that Mr. Rosenberg, was two weeks getting the spare parts to return to Dachau to repair said chamber and that he returned about the middle of June. Now, isn't this coincidental, Doctor?

A. Yes, it is.

Q. It certainly is, isn't it?

A. But I think I can explain it. The barometer was repaired in Berlin by the Kutz firm which repaired barometers and which had supplied the barometer in the first place. And Matthes' trip to Bonn —

Q. To Cologne. He was in Bonn, his home —

A. Yes, Bonn was his home town. His trip to Cologne had nothing to do with the repair of the barometer. If I remember correctly, Ruff

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would probably have known this better -- the firm which made the pumps was located in Cologne, pumps for low pressure chambers.

Q. What were you getting spare parts for if the low pressure chamber was in good condition when you brought it back to Berlin? What did you need parts for at that time? That was an unnecessary trip to take a man from his home town and send him all the way to Cologne to get parts when they weren't needed.

A. The parts were needed. I do not know

Q. You stated here just a minute ago that the chamber was in good condition. Now, let's make up our minds, Doctor.

A. I don't have to make up my mind. The pumps which Matthes picked up in Cologne --- I don't even know whether they were for this low pressure chamber or whether they were needed for one of the other mobile low pressure chamber which were also in operation. This work book of Fohlmeister which was submitted here, it shows that there were several low pressure chambers in Berlin. That book mentions a low pressure chamber at the time when the other chamber was at Dachau. It was still under construction and the pumps were probably for this other chamber. If you have the book there -- that work book -- you can see that clearly.

Q. Well now, let's discuss another section of this low pressure chamber transfer. Who gave you the authority, and Ruff the authority, to remove the low pressure chamber from Dachau to Berlin on the 20th day of May, 1942?

A. Who authorized Ruff?

Q. Yes.

A. Probably that was done with the Medical Inspectorate just like the transfer down to Dachau, in order to have travel orders. In this case, it was a little different because it was sent by railroad.

Q. That's right. He couldn't remove it without authority from above, could he? At least, that's what he tells us.

A. Take it out of Dachau?

Q. Yes.

Q. You didn't need permission from above, meaning from the Luftwaffe, so much as permission from Himmler and Rascher particularly, to get it out of Dachau.

Q. Well, you mean to say that Dr. Ruff could have removed the low pressure chamber from Dachau at any time he so saw fit?

A. No, he certainly couldn't.

Q. That's right. That's what he says. He couldn't.

A. Yes.

Q. Well now, let's look at Mr. Milch's letter on page 77 of Document Book Number 2. This happens to be dated the 20th of May, 1942. It is Document 343A-PS, Page 77 of the English. Now let's read this:

"Dear Wolffy:"

(It is addressed to SS-Obergruppenfuehrer Karl Wolff from Field Marshal Milch.)

"In reference to your telegram of 12 May, our medical inspector reports to me that the altitude experiments carried out by the SS and Luftwaffe at Dachau have been finished. Any continuation of these experiments seems essentially unreasonable. However, the carrying out of experiments of some other kind, in regard to perils at high seas, would be important. These have been prepared in immediate agreement with the proper offices; Oberstabsarzt Woltz will be charged with the execution and Stabsarzt Rascher will be made available until further order in addition to his duties within the Medical Corps of the Luftwaffe. A change of these measures does not appear necessary, and an enlargement of the task is not considered pressing at this time.

"The low-pressure chamber will not be needed for these low-temperature experiments. It is urgently needed at another place and therefore can no longer remain in Dachau.

"I convey the special thanks.....etc."

Signed "Milch".

Now, here on the 20th of May, Milch is just beginning to discuss the fact that it should no longer remain in Dachau. He thinks it is still in Dachau, doesn't he? You haven't received orders to remove it yet. How did you remove it? Let's turn to the next letter, Doctor.

A. I removed the chamber by saying to Rascher, who wanted to

carry on the experiments, "Rascher, there's no point in your trying to keep the chamber here any longer. You will only succeed in doing so for two or three weeks, at the most. It will be better if we stop with the chamber now and perform new experiments later", and Rascher agreed to this. I called Ruff up and said, "Ruff, I've managed it. We can take the chamber away." Ruff sent the drivers down and the chamber was taken out of Dachau, and that's how it happened.

Q. Well now, here we have another letter, fortunately, dated 4 June 1942, on page 78, Document Book Number 2, and this is from Milch to Hippke. It reads as follows:

"According to the agreement with the Reichsfuehrer SS the low-pressure air chamber for experiments in the neighborhood of Munich is still to be available for two months longer.

"Moreover, the Stabsarzt Dr. Rascher is, in addition to his tests in the Luftwaffe, to be on duty for the present for the purposes of the Reichsfuehrer SS.

"Heil Hitler, Yours, Milch."

He sent a copy to SS Obergruppenfuehrer Wolff.

Now, doesn't it appear that Walter Neff's memory is much better than yours?

A. No, I know very well that the chamber was already gone at that time; that the high altitude experiments had been concluded. That is, in part, clear from the letter which Rascher himself wrote to Hippke.

Q. Let's turn to the next letter, NO.284, on page 79. Just turn the page:

"Dear Dr. Rascher:

"Our letter of 5 June 1942..."

Now we're up to the 5th of June, and, according to these documents, the chamber is still there.

"Your letter of 5 June 1942, to Reichsfuehrer-SS was handed SS-Obergruppenfuehrer Wolff, Chief of Reichsfuehrer-SS Personal Staff,

for further action, on whose behalf I wish to inform you that in keeping with an order of Field Marshal Milch the low-pressure chamber is to remain available an additional two months for experiments. Field Marshal Milch also ordered that in addition to your experiments for the Luftwaffe, also you are to continue working until further notice for the purposes of Reichsfuehrer-SS."

Now, according to this letter -- not according to your opinion, but according to this letter, the chamber is still at Dachau, isn't it?

A. No, I don't see that. The letter is nothing but.....

Q. Well, we'll let the Tribunal decide. Tell me.

A. May I say something?

Q. Certainly. Go ahead.

A. This letter is merely one to pass on the letter from Milch which has just been read. That is, the letter of the 4th of June, Exhibit 36.

Q. Right.

A. And Milch writes that the chamber is to stay for two more months.

Q. That's right.

A. Whether Milch, when he wrote this letter, actually knew that the experiments had already been stopped and wrote this letter nevertheless; or whether he didn't know it, I can't judge.

Q. Yes, but you couldn't remove this chamber -- either you or Ruff -- without the permission of Hippke or Milch. Don't forget that. You couldn't remove it. You didn't have the authority to take it out of there after you had one death occur -- to stop these experiments of Rascher. You had to leave it there because you would need a superior order. Now, here are, more or less, orders telling you to leave it there for two months, didn't they?

A. The higher orders needed to remove the chamber had to come from Himmler through Rascher. He had to agree to returning the chamber.

Milch himself, or Hippke, as the letter of the 20th of May shows, could say that the chamber was not needed by them. What had to happen happened -- that Rascher approached Milch, through Himmler, and asked to be able to keep it longer and Milch writes, probably knowing that the chamber had already left: "Yes, you can keep it longer." Besides, as far as the breaking off of the experiments is concerned, which according to the appearance of the documents, lasted two months beyond the 4th of June -- that was far into July -- I should like to refer to the letter of Rascher of the 5th of June, 1942, Document No. 283, Exhibit 82. Rascher writes: "A few days ago I was called into Hippke's office for a conference. When I told him that the report on all the experiments was not available yet, he did not demand any report." Rascher himself writes on the 15th of June: "A few days ago I saw Hippke", that is, let us say, on the 12th of June, and he also writes "the complete report is not finished"; which indicates that the experiments were already finished at that time.

Q. Of course, that can be interpreted that the experiments were not finished and you had to finish them up before you could finish the report. There are two ways of interpreting that, Doctor.

Now, tell me, Doctor Rosenberg, after the chamber finally did get back to Berlin and the experiments were concluded -- whether it be the time you state or the time that is borne out by the documents and the testimony of Walter Naff -- then, as you have pointed out in your direct examination, Mr. Rascher received an assignment from Himmler later in the year, that is, in the fall or winter of the year, and one of these assignments, you have ably pointed out, was again research with low pressure chamber and in the same field. Now, did Rascher ever get a low pressure chamber again? In late 1942 or 1943?

A. No, he did not.

Q. You have stated that he couldn't get one all over Germany, didn't you? You stated on direct examination that he tried to get one and he couldn't get one?

and he couldn't get one?

A. No, I did not say that. In my direct examination I merely quoted the individual documents showing Rascher's efforts to get a new low pressure chamber.

Q. Well, he didn't get one, did he?

A. To my knowledge and to the knowledge of the Medical Inspectorate which we contacted later, he did not receive any chamber.

Q. Did he get your chamber?

A. Ours? No.

Q. He must have gotten some chamber because he conducted experiments in 1943 with a chamber. Here in the Sievers Diary which is Document No. 538 contained on page 65 of Document Book Number 3, is an entry under date of April 6, 1943, the eighth entry made by Sievers reads as follows:

"Continuation of the low pressure chamber experiments."

Now, it appears that he had some sort of chamber down there, doesn't it? Was it yours?

A. What was the date of this entry?

Q. I believe I said the 6th of April 1943, and it is in the Sievers Diary. No need to look at it, Doctor. I quoted it to you.

A. No, I don't have it here anyhow. I just want to say that might have something to do with Document NO-270, Exhibit 110, in Document Book 3, where Rascher tells about his conference with Hippke. Again, he says that he wants to conduct low pressure chamber experiments with me at the same time when he was in Berlin. Anyhow, he went to see Sievers and again told him that he wanted to continue the low pressure chamber experiments, just as he had told Hippke.

Q. Well, let's go on, Doctor. Now, Dr. Rosenberg, you, and your chief, Dr. Ruff, maintain that all you were interested in was what the title of your official report said: "Rescue from High Altitudes." And that you merely took people up and down, quickly, up by explosive decompression, and down by free fall, or parachute and that you were not interested in anything else. Is that right? That was your primary interest - in simple language.

A. That was our primary interest.

Q. Well, now, I want to turn to Document Book 2 again, page 91. This is Document NO-402, your report. This will be on page 16 of the German; not of the Document Book, but of the German document itself.

Now, on page 16 of the original, the last paragraph on the page, you say there in the report -- and by the way I might ask you -- that was your signature on the report, was it not?

A. Yes.

Q. You say there: "In spite of the relatively large number of experiments, the actual cause of the severe mental disturbances and bodily failures (paralysis, blindness, etc.) attendant upon post-hypoxemic twilight state remains somewhat of a riddle." What is the riddle?

A. One could not say exactly whether these severe failures were caused alone by the lack of oxygen, or whether they might have something to do with the bends disease - caisson disease - or the bends disease.

Q. So, then, you were interested, according to your own report, in that problem of gas or air bubbles. And your friend Rascher obliged, supplied the answer to the riddle, didn't he? He killed a few people for you, right in your presence. You were there. You watched the autopsy. He showed you the bubbles in the brain, in the brain's blood vessels - the bubbles which were caused by the decompression. That was the answer, wasn't it...to the riddle? You thought it was.

A. No. First of all, Rascher was not my friend. And "bends", as quoted here in connection with the decompression which were experienced because this was a well known problem which had often been complained of, and there existed quite a bit of literature, it was known particularly by the Navy in regard to caisson disease... it was not really no new problem. The finding of air bubbles in an autopsy is not in itself an explanation of these failure symptoms. One might be able to determine that in a very careful examination if one could prove air bubbles in a certain center. But, as far as I know that is very difficult or even impossible because air embolism occurs in surgical cases too, for example, if a vein is cut during an operation, it also occurs ---

Q. I think we are familiar with all that, Doctor. The point I am trying to bear out is that I am not trying to indicate that you and Ruff made Rascher do this, or made Rascher kill people, but you let him do it, and you were very glad to have the answer to your riddle. You state in your paper that neither you nor Ruff after the murder saw to it that Rascher was indicted for murder, did you? You needed that information, and you have it here in your report.

A. No, that of course is not right. I must object to that strenuously. The observations which Rascher made, which he gives in

his interim reports, he never made them public in any way, and never supplied them to the Luftwaffe, to Ruff, or to me in any way. He reformed.....

Q. Well, Doctor, you go on a little bit in this document, where you and Ruff say...you and Rascher in this report... on the next page, an excerpt: "It appeared often as though the phenomena of pressure drop sickness had combined with the results of severe oxygen lack." Your chief, Ruff, now has admitted on the stand that pressure drop sickness does not occur if one takes people merely up and down quickly, but that a person has to stay up for some time to develop this pressure drop sickness. Well, who were these people that you refer to in this report when you state "It appeared often." Who do you mean by that?....just you and Rascher? Certainly you don't mean just the two of you.

A. I am referring, for one thing, also to the experiment which was used for clarification, and also to the slow sinking experiments where these symptoms occurred, which were not clear to us. And as an attempt to explain these peculiar symptoms this experiment was used where, without any lack of oxygen, when sustained for a long time -- it says forty minutes there -- at thirteen kilometers, a similar severe condition occurred with paralysis of both legs and interruption of the sight which lasted for two hours. A similar condition as in the slow sinking experiments where there was really only a lack of oxygen, and really there could be no basis to judge by the time, but just because the serious symptoms in this one experimental subject, and the serious symptoms on myself were so similar, this experiment on myself is quoted here only for this reason.----

Q. That's right. We will come to that. We will go into that more specifically.

A. ---And it is said "it appeared often."

Q. Right.

A. That remained open. We were not able to explain it quite. We meant we tried to explain these symptoms.

Q. Well, Doctor, you and Ruff both here have claimed that your report merely concerned itself with rapid ascent and immediate descent. Now, that was already withdrawn by Ruff when he was on the stand when I confronted him with this part of the report, the self-experiment which you and Rascher had performed because you and Rascher had stayed up forty minutes -- I think you stayed up forty minutes and Rascher ten minutes -- and then you include this in your report even though this type of research, right here does not fall in with what you claim was your problem at all, does it?

A. No, it does not. Therefore....

Q. That 's right.

A. That is why we didn't perform these experiments on experimental subjects...

Q. And further, Ruff admitted that it was the most dangerous experiment and if it had not been interrupted it might have been fatal, didn't he? Do you think the same as Ruff did?

A. According to my knowledge today, yes. At the time we didn't know about this death yet, which had occurred in such longlasting experiments at a certain altitude. Ruff learned that in the Aero-Medical Center. This knowledge originated in 1946.

Q. How many times did you and Rascher go through this same type of experiment? Only that one time?

A. This experiment -- this extremely long one?

Q. Yes, that one.

A. It was performed only once, I am sure, but otherwise we stayed up for a considerable time in other experiments. Then there were minor disturbances.

Q. Then you and Rascher would have only exposed yourselves to such a danger as that? Is that it?

A. We did not deliberately expose ourselves to this danger to make an extreme experiment, but we stayed up there because otherwise in the two or three ascents per day which we usually performed,

and afterwards in the second or third ascent we had these symptoms which did not occur the first time. And we wanted then to determine whether the symptoms were caused by going up three times a day, and, say, ten minutes at a time, or whether the same would occur if one goes up for a half hour.

Q. That has been explained to us fully by Dr. Ruff. But you actually went up to these two heights, 13,000 or 13,500 feet and you stayed there for an extensive length of time on one occasion only. Is that right?

A. That experiment took place at 13 or 13.5 km. That is what it says here.

Q. Yes; and you did it only once?

A. I can't say that with certainty, but we did not do that too often. I would not know of this experiment at all if it were not mentioned in this report.

Q. You just said you did not do it very often; what do you mean when you say here: "It appeared often as though the phenomena of pressure drop sickness (aeroembolism) had combined with the results of severe oxygen lack?" Now, doctor, isn't it that you simply in this report did not want to mention the others, because they had died, since you and Rascher never interrupted an experiment because of pain felt by subjects and when it says it appeared often, if certainly did, in Rascher's work at least.

A. I did not quite understand the question, but in any case, "this happened often" that means that the symptoms in the slow sinking experiments, paralysis or interruption of sight, occurred that these symptoms were familiar to those in our own experiments.

Q. Well, now you don't deny the fact that Rascher, supposedly on his own initiative, conducted experiments to determine this gas bubble situation and air-embolism and pressure drop sickness or whatever you want to call it. He did that on the people at Dachau on his own initiative and performed autopsies on them; you saw the autopsies; He did that, didn't he?

A. Of course, he did perform experiments with fatal results, that is proved by the Documents and he apparently had several points in mind, which he wanted to clarify. He actually told me himself that the E.K.G. and Bonds was one of the things, he wanted to clear up, he proved they were air bubbles and he wanted to attack this problem, but that is a field which had nothing to do with ours.

Q. But neither did this experiment, which you conducted. You admitted here right now that this one experiment had nothing to do with your field. We'll go on with this report. In the next sentence you state, in the same

paragraph: "In this connection, the subjective accounts made by the authors in two experiments, each was interesting." Now what happened to the objective findings, they are only the subjective findings; what happened to the objective findings?

A. Our own observations? I cannot say exactly. My disturbances were described according to the records that Rascher kept. He wrote down my symptoms, I, myself, of course, don't know that in detail. I was so seriously affected, even afterward, that I did not know exactly what had happened.

Q. Well then, you did not know, whether or not you had pressure drop sickness, did you?

A. No, during the experiment, I certainly did not know it.

Q. Well, now here are some tell-tale marks of your connection in that pressure drop sickness which played a definite part. On Page 18 of this report wherein you state: this is in the English copy at the top of page 92, the first paragraph, the last phrase in the last sentence, Your Honor, - where you state there and I quote: "so that the idea of a combination of pressure drop phenomena with the phenomena of oxygen lack is definitely suggested." Now, you had not other clues to pressure drop sickness, than Rascher's air bubbles which he had shown to you during an autopsy, had you?

A. No, the air bubbles which one sees in an autopsy are not proof of this, they don't necessarily have anything to do with it. For example, if in a case of embolism, if it is caused in draining a lung, besides the small blood vessels are generally cut and gas embolism is caused in the blood stream and sometimes this occurs in fatal operations, but it is not necessarily true that people who die of gas embolism during an operation, have, or must have such symptoms.

One cannot say that the picture of gas embolism necessarily leads to the symptoms. On the other hand one cannot say, if there are these symptoms in a death. In an autopsy, one must have to find bubbles or if they are found if they have anything to do with the symptoms, but the symptoms are not necessarily connected with these bubbles.

Q. But, you say here, I quote: That the idea of a combination of pressure drop phenomena with the phenomena of oxygen lack is definitely suggested." Now, you could not have concluded that from your subjective experiences could you?

A. Oh, yes, bends was not a new problem in aviation medicine, the whole field of bends or caisson disease, or whatever you want to call it, is a very old problem. In the Navy it is called Caisson-disease and it is called the same thing in America, I believe.

Q. Now from your subjective experiences you could have stated that was due to oxygen intoxication, paradoxical effect of oxygen administration, or anything else in the world; couldn't you?

A. I don't think I understand the question, would you mind repeating it?

Q. I said, you could have from your subjective experiments you related here, when you expeditied the subjective experiences, I said what we see in this report, from the face of the report itself and on the face of your experiences, that this condition, which you describe, could have been due to anything else in the world, it could be due to oxygen intoxication, to a paradoxical effect of oxygen administration or any other cause or reason for it; is that true?

A. No, lack of oxygen could not have been the cause in our self experiment, which is described here, and the

time of lack of oxygen was only about 5 seconds. The lack of oxygen was certainly not the only reason for these symptoms. On the other hand it was noteworthy that in these experiments there was paralysis and interference with sight after these five seconds of lack of oxygen. It was a unique condition; First there were few complaints and then 5 seconds of lack of oxygen and then suddenly these serious interruptions with the sight and paralysis. For this reason this circumstance is used to attempt to use the unique conditions in these low sinking experiments. Now Caisson disease was nothing new, some effect of it, for example, the disturbance of the eye sight, the central loss of sight in the middle of the field of vision, that is suffered by almost everyone who was in the low pressure chamber frequently and the only explanation was, there must be small air bubbles, which don't even have to be in the circulatory system, which can be anywhere in the tissues and which lead to pain, which is called Bends. When such gases are repeated in the tissues, it leads to paralysis and when in the brain it leads to disturbance in the sight. That was known, and particularly Ruff and Becker-Freysong worked on this problem in the medical center, because this matter had not been cleared up. It was claimed and known that such various complaints occurred, but it was not clear what caused the symptoms and this had not been cleared up by the fatalities which occurred repeatedly in the case of Caisson sufferers, if they are not taken to a hospital in time.

Q. Well, doctor, all that information is of course valuable, but be that as it may, here we have a report. A report is, as I understand, a listing of what a re-

searcher found out during the course of the research work. Now you have made these statements in this report, which is a report of your work at Dachau, listed what you discovered there and you have stated that you have found this phenomena, this combination of the pressure drop phenomena with the phenomena of oxygen lack and you say it is suggested; how did you determine that; were you just guessing, just guessing?

A. It was not "just guessing", it was a theory which could be used to explain the matter and for that reason, I did write; "it often seemed that the lack of oxygen was combined in some instances with pressure drop sickness". That is a scientific hypothesis.

searcher found out during the course of the research work. Now you have made these statements in this report, which is a report of your work at Dachau, listed what you discovered there and you have stated that you have found this phenomena, this combination of the pressure drop phenomena with the phenomena of oxygen lack and you say it is suggested; how did you determine that; were you just guessing, just guessing?

A. It was not "just guessing", it was a theory which could be used to explain the matter and for that reason, I did write; "it often seemed that the lack of oxygen was combined in some instances with pressure drop sickness". That is a scientific hypothesis.

Q Well, as a matter of fact, doctor, you didn't have to guess, did you? All you had to do was ask Rascher?

A Rascher in his experiments as we know from the interim reports did not learn anything in this respect. No results are mentioned in the interim reports in that direction. Besides Rascher did not inform me of there result of his own work.

Q He didn't have to inform you -- you stood there and watched it. He didn't have to inform you at all?

A Yes, I watched one autopsy. That was my duty.

Q Sure, that certainly was. Now Ruff has admitted here that the atmospheric difference between the ground level and the altitudes at which you were operating was not sufficient to make any experienced aviation medical man to think of pressure drop sickness. That is something akin to the caisson disease, the bends and so forth. Now, wasn't it Rascher's air bubbles and his dead men that made you think of it?

A No, certainly not. It was the observed disturbances gave rise to this thought. I have said that such air bubbles can appear and often do appear without any such disturbances.

Q Well now, doctor, when again did the first death occur?

A About the 1st of April, I said.

Q Now, how did the death occur? Did they take the man up too high, and have him stay there too long. Tell us the particulars of why that man died?

A It was an experiment at, I believe 13 or 14 kilometers. Rascher obviously stayed too long at the same altitude so that probably there was a fatal air embolism which caused death.

Q Well, now at this first death, how did you happen to be there?

A I already said that Rascher frequently performed experiments for which he had an assignment from Himmler, which he was performing in addition to our joint experiments, and sometimes I watched those experiments, just as in our institute I sometimes watched the centrifugal experiments of Ruff, although I was not working on them myself.

Q Well you were not assigned to watch these, were you?

A No, I didn't.

Q How did you know Rascher was going to perform an experiment at this time?

A I didn't know it beforehand. Generally, I was at the experimental station and at the low pressure chamber anyhow and Rascher carried out experiments with a different man, outside of our series.

Q And hadn't you just carried on an experiment before and within the same period, with one of your men?

A No doubt. We carried out experiments every day on our own people.

Q That is strange then. You probably carried out a couple of experiments, and then Rascher said, wait a minute now, Dr. Romborg, we will have an experiment for Himmler. This has nothing to do with you, step aside, you get out of the way a bit, I am going to experiment on this fellow for Himmler. Is that what he said to you?

A No, it wasn't like that.

Q Then how did you differentiate between the Luftwaffe experiments and the SS experiments?

A I know what experiments I performed myself.

Q Yes, but you were collaborators, weren't you? You were ordered by Ruff to go down there and collaborate with Rascher, weren't you?

A Yes, for these experiments for rescue from high altitude. We worked together on that.

Q Now these three deaths that took place, how did the second death occur?

A The second death?

Q Yes.

A As far as I recall that was an experiment at a much higher altitudes, higher than 14, it might have been 17, and probably there was again a fatal embolism. After a certain time at this altitude the subject suddenly died.

Q Tell us about the third death?

A The third death was just like the second one.

Q How about the other deaths?

A I don't know. I can only judge from the reports where Rascher reported these deaths to Himmler.

Q Well now Mr. McHaney interrogated you on the 30th day of October 1946. At that time you told him that you knew that more than three fatalities occurred, and you thought it was approximately five to ten people died in these experiments. Didn't you tell that to Mr. McHaney last October?

A I said that, yes. I said that in the Milch trial too.

Q How did you know about that? Where did you get that knowledge that other deaths occurred?

A I learned that from the other prisoners who told me about it when the experiments were broken off. They said they were really glad that it was finished. I said, "why", and they said: "Because things have happened." They weren't definite, but I concluded that there had been other deaths.

Q Well weren't you ashamed when you heard of that from the inmates at the conclusion of the experiments sometime in June or July? Weren't you ashamed you had been associated with Rascher in his murder mill?

A The situation was not simple for me. I didn't want to have anything more to do with these experiments; that can be seen from the fact that I interrupted them.

Q Well now in the course of these deaths, just what were you doing yourself? Were you just standing there looking in the window or were you operating some of the apparatus for Rascher?

A No, I have already said that at the first time I was looking at the electro-cardiogram, the point of light that follows the heart.

Q Then you were working with Rascher. You were studying the electro cardiogram? You were working with Rascher under Ruff's orders.

You worked with Rascher on that experiment and studied the electro-cardiogram?

A No, I didn't collaborate with Rascher. I happened to be watching this experiment and I saw the electro-cardiogram, and when I saw a critical point was being reached where I myself would have stopped the experiment, I said to Rascher.

Q Well what did it require at that particular point to stop the experiment? Suppose you were operating the controls that Rascher had in front of him or the controls on the pressure chamber. At that particular point, the fatal point where you noticed on the electro-cardiogram, when you were studying it, what could you have done if you were operating it to stop the experiment and save the person from dying? What would have been the quickest thing to do, pull a valve or what? This is a simple question, doctor. I think you can answer it briefly. Did you turn a crank, or push in a plug or button, or throw off a valve, or how would you save him?

A Do you mean if that had been my own experiment?

Q Yes, what would you have done at the moment to save the man, if you saw he was going too high, what was the crucial thing to do to stop the experiment?

A I have to ask you again. Do you mean what I would have done in my own experiment with my own experimental subject, or what I could have done to make Rascher stop his experiment?

Q I am not asking you either question. I am asking you what could have been done to stop the experiment at that particular point. How would you stop it, how would anybody stop it, what did you do with the equipment to stop the experiment so that he would not die? Is there a button you push, or what is there?

A Rascher had a control in his hand with which he regulated the altitude. He would have had to turn that so that the pressure would be increased, that is the altitude would be reduced in the chamber.

Q Well now, on these chambers, you do understand how all of the equipment works, don't you? It is elementary to you, isn't it?

A Yes.

Q And you were thoroughly familiar with the running of that chamber, weren't you?

A Yes, I know that.

Q You had experimented with it yourself?

A Yes, of course.

Q You were connected with an institute for aviation research?

A Yes, I was an employee of Ruff's.

Q And you could determine from a study of the electro-cardiogram that the subject in that particular chamber at that time was reaching an altitude where it might well result in death? You could determine that from your experience in the field of aviation medicine, couldn't you?

A When death occurs exactly I couldn't tell because I had never experienced any deaths in this sphere. I have already said that I myself, if this were my own experiments, would have stopped.

Q Well now for the first time I have heard it - it doesn't appear in your affidavit and it never appeared in your interrogations before this but here for the first time in your direct examination you testified that you warned Rascher; you said: "Now be careful there, Sigmund, let's be careful, you are going to high." Now did you say that? If you did you must have known that death was going to come out of this thing, doctor?

A No, I didn't know that exactly. I only know it was a critically high point. I didn't say "Sigmund", I called him Rascher. But as far as I know in my interrogation here I said that. I pointed this out to Rascher. This is not the first time I have said that.

Q Well now while Rascher was operating these controls could he himself see the electro cardiogram?

A Yes, he could.

Q Well now could you, with your arms reach out and point out the Tribunal how far the controls were from the electro cardiogram, how far away was he from this physically? Was he where he could look over and study it here, and just what was his position with reference to the electro-cardiogram.

A Yes, I can show you. Here pointing was the window where Rascher was watching the experiment, and to the left about that far, was the machine which he had to regulate the altitude and to the right was the electro cardiogram.

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Q Why couldn't you just reach right over there and turned that wheel and save that man's life.

A I said to Rascher he should go down.

Q I am asking you a question: Why couldn't you? You were standing at the electrocardiogram. You weren't ten miles away. Why couldn't you have reached over and turned that wheel and save that man's life, you could have, couldn't you?

A If I said that to him and he didn't do it--then I would not have been able to achieve anything by force. I would have had to beat him down, or something.

Q I agree with you, Dr. Romberg, that perhaps scientists are not good boxers or wrestlers, but Mr. Rascher was not a six foot six, perfect Nordic specimen; he was in fact a man smaller than you were. You were physically better than he was and you could well have reached over and turned that wheel and saved that man's life, and then discuss with him later by use of words-- as you say, words are so important, you can do more with words than you can with physical strength. Then you could have discussed the problem with him intelligently with words. And if you couldn't have gotten further with words, then you could have walked out and gone back to Berlin, and let him do it as he wished. Now, you were in a position to reach over and turn that wheel, weren't you, weren't you?

A No, since I said that to Rascher, and he didn't do it, he obviously didn't intend to do that. If, at that moment, I had attacked him by force--

Q You wouldn't have had to attack him--just reach over and turn the wheel. Don't touch Rascher--just his hand--just turn the wheel. Very simple.

A "e had the wheel in his hand. If he doesn't do anything when I tell him to, he wouldn't do it if I try to turn it. "e would simply have gone on with the experiment.

Q You were bigger than Rascher, weren't you?

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A It may be yes, I was a little taller.

Q Well, now, after the person died, you make it ridiculous that you might well have reported him to the police for murder. Why didn't you do that? It is a logical thing to do when a man commits murder. It isn't so ridiculous to turn in a murderer.

A It looks like murder now, and now that we know all about it we can decide that, but at the time I knew that Rascher was a Stabsarzt of the Luftwaffe...

Q Let me ask you one question. When you saw this dead man, what did it look like then? It might look like murder now, right in this courtroom, but you saw that dead man lying there--what did it look like then?

A It was an experiment with fatal result. Such experiments do happen in the world, and nobody says it is a murder.

Q Well, now you saw the autopsies too, didn't you? Did they perform an autopsy on that man?

A Yes; I said that already.

Q And after having objected, as you say you did, both while the man was in the chamber and the altitude was increasing, and then objecting after the man died--you still watched the autopsy after all this argument you had with Rascher?

A I didn't think it was nice at all. Rascher had continued the experiment too long, and the man died. But whether he deliberately intended to murder him--I couldn't say. But a death had occurred, and so I watched the autopsy.

Q Now, at this time when this death occurred, Rascher was in the Luftwaffe, wasn't he?

A Yes.

Q You were in the Luftwaffe--a civilian employee of the Luftwaffe?

A No; I was an employee of the German Research Institute for Aviation. We did not belong to the Luftwaffe; therefore we did not wear a uniform.

Q Well, you were doing work for the Luftwaffe?

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A In part we worked for the Luftwaffe, too. But we also worked for industry.

Q So then you reported this death and all these deaths, as a matter of fact--but you reported this first death to Ruff immediately, didn't you?

A Yes.

Q What did he do about it? Did he call the police?

A No, as he said himself, he did not. The police were not competent in the case of Rascher. He was a member of the Luftwaffe; Luftwaffe courts were competent. Ruff reported it to Rascher and his superior, the Chief of the Medical Service.

Q Well, then after this first death, how does it happen that Rosenberg didn't turn up his coat collar and go out to get in the tractor part of the chamber and drive it to Berlin? Why didn't you get that chamber right out of there immediately? You saw deaths there. Why did you stay around?

A We talked about that for a long time, and as Ruff mentioned that we deliberated what we should do. It was clear that Ruff would report it; we didn't have to think about that. We also realized that we would achieve nothing with Himmler by going to him and saying Rascher performed an experiment and a person died. Himmler would probably have said, "I know I gave him the orders. That is none of your business."

For this reason we decided that I should go back, that our experiments should be completed so that we could say the experiments had been concluded; the chamber will not be needed any more. And then, in this way, after the experiments were concluded Rascher gave his approval and Himmler gave his approval--the chamber could be removed from Dachau to make any further work impossible.

Q The fallacy of all that story is that you had ample opportunity to just not repair the barometer. Here you were, trying to find a scheme and a way to quickly get that thing out of there, that chamber out of Dachau, and here was a broken part. The only way to get it repaired was

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to go to Berlin to get the parts, and Mr. Neff was so disappointed, he said his story was, he was disappointed that you had returned with the part and fixed it, when he had sabotaged it. But your story is even far more fantastic. You said that you rushed right back in a matter of a 2,3,4,5, days, instead of two weeks, like Neff said, rushed right back to get it in order, and then two people died after you put it back into operation again. It certainly was an active way to stop Rascher's work--wasn't it?

A I believe if it was compared with what Rascher intended to do--as the documents say; what I read this morning--it was a very effective method.

Q It certainly was.

Well now, doctor, you then still had--after you even cleared out of Dachau entirely, got out of Dachau altogether--the Chamber was returned to Berlin, whether it be May or July or August. Then you still associated yourself with Rascher when you reported and you wrote that report about the film, and the unfortunate fact that Milch didn't show up for the showing in September. So still even in September you were still friendly with Dr. Rascher and working with Dr. Rascher, the man that had proved himself to you to be a murderer, didn't you?

A It was not so clear to me that he was a murderer--neither morally or legally is it quite clear, I said already...

Q Now, at that time, you must recall that you have stated here on this witness stand that you personally saw three deaths, and that at the completion of the experiment--and you bring it way back in May that your inmates told you that there were some ten deaths. And now, with that in view, you know this, you say--according

to your own testimony in the month of May? My word! In September you are still associating yourself with Rascher--proud to be with him, weren't you?

A. No, I was certainly not proud of working with Rascher. After Himmler gave me orders to perform cold experiments I could have worked with Rascher all I wanted to.

Q. When did Rascher give you the recommendations for a medal? When did that occur?

A. Recommendation....?

Q. Didn't Rascher recommend you for the medal that Himmler gave you?

A. To what extent that came from Rascher, I don't know exactly. It was doubtless so that Rascher, himself--if it was he who handed in my name--wanted the War Merit Cross First Class. He told me himself that he already had a Second Class, and he wanted the First Class. Rascher no doubt wanted to bribe me in a sense to give him back the low-pressure chamber. He also wanted to continue with the experiments. He hoped that I would work with him again. What I said here about my attitude to Rascher, I did not tell Rascher personally, of course. I couldn't.

Q. Well, you were given a medal, weren't you? Yes or no.

A. Yes, I got it.

Q. Who gave you the medal?

A. I received it by mail with a document which was signed by Keitel.

Q. Keitel? And what did you get the medal for?

A. For services in the field of aviation research the War Merit Cross Second Class was awarded.

Q. And the documents which show that Rascher recommended you to Himmler for that medal, as I recall?

A. Yes, I have seen that in the documents too.

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MR. HARDY: I have one more question, Your Honor. It will only
take me a few minutes and I will be through.

THE PRESIDENT: Proceed.

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Q. Now, the Nurnberg conference on freezing took place in October, didn't it?

A. Yes.

Q. You were there?

A. I was there.

Q. Ruff was there?

A. Ruff was there.

Q. You stated, on direct examination, that it was obvious that deaths occurred in the course of those experiments?

A. I didn't say that it was clear. I said that it was clear to me personally just as the witness Lutz here testified that it was clear to him.

Q. It was also clear to you, from the report given, that deaths had occurred? Is that what you are trying to tell me? Or was it clear to you because of the fact that Holzlochner had told you. How was it clear to you that deaths had occurred?

A. It was clear to me because I myself had seen that Rascher had had deaths, because I had broken off my work with him for that reason, taken the chamber away for that reason, refused to perform the cold experiments with him; and, therefore, I assumed that Rascher had had deaths again in the cold experiments, and if Holzlochner talked about deaths at the conference, obviously they were deaths which occurred thanks to the work of Rascher and Finke. I personally assumed that these were deaths that had occurred through cold experiments, but this was not obvious to every one.

Q. Now, did Ruff realize that persons had died in freezing experiments?

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He was there at the meeting.

A. I don't know what Ruff said anymore.

Q. What has he said here.

A. I don't know exactly. I believe he said he didn't realize it.

Q. And now you realized, on one hand, that deaths occurred in the high altitude experiments and you realized that deaths occurred in the freezing experiments. You were at a conference in October for freezing experiments, and, at such conference, there were several men there of considerable importance. Did you object to these wholesale deaths as a result of the experiments in the Dachau concentration camp, to any one? An active objection?

A. Actively, no. I didn't do anything but what I had done before. The deaths which I knew about positively I had reported to the Luftwaffe, to Rascher's personal chief and.....

Q. (Interrupting) Now, as a physician, a man who was fully aware of the manner in which Rascher worked and surely realized, sitting in that conference in October, that even further deaths were occurring in Dachau, did you object then, as a physician? Did you stand up and object or didn't you go to somebody and say "This must be stopped"?

A. No, I did not. There were other people there who realized it too, who were much more powerful than I.

Q. Well, then, you didn't go anywhere or actively object at that meeting? Did you?

A. At this meeting, no. I didn't do anything active. I had done that already.

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Q. Then I can assume that it didn't bother you one iota if every inmate of the Dachau concentration camp was killed, did it? It didn't bother you at all?

A. It would have bothered me very much. I personally broke off the high altitude experiments for that very reason and took the chamber away. I acted against Hitler's orders and against my signature when I reported the matter to Ruff which was certainly not without danger, so as to stop the high altitude experiments, The Rascher experiments in this way, and I can say, that he didn't carry out any more experiments.

Q. One other question. You were down there as a subordinate of Ruff in Dachau, weren't you? A subordinate of Ruff, according to Ruff's own testimony.

A. I was an associate of Ruff, yes.

Q. It was your duty to report to Ruff, wasn't it, the workings and the activities of your experiments?

A. Of course.

Q. No further questions, Your Honor.

BY JUDGE SEBRING:

Q. Dr. Romberg, at the time this first death occurred in the Rascher experiment, who was assisting Dr. Rascher at the time as a technician?

A. Working the controls. He did that himself as I have described. In the motor car, where the pumps were, it was probably Neff or Sobotta; he often did that. Or some other prisoner who knew something about auto mechanics. These three people always took care of the motor.

Q. Do you know that to be a fact at that time this first death occurred?

A. That it was one of these three who was in the pump car?

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Q. Yes.

A. Yes, it certainly could have only been one of these three because nobody else had any business in that car. These two experimental subjects and Neff were the ones who always took care of the pump because they understood those things.

Q. I understood Dr. Ruff to say, on this examination, that the minimum requirements for the conduct of an experiment was one doctor and one technical assistant. Now, who was present, assisting Dr. Rascher, at the time the second death occurred?

A. That was surely the same situation. To go into Ruff's testimony when he said technical assistant he he now doubt meant some one to take care of the pump. In the DVL that was generally the mechanic, Fohlmeister, or one of the apprentices in the work shop. In Dachau, there was no special employee or any one from the DVL present, but since the pumps were built very simply anyone could take care of them who knew a little bit about auto mechanics and so it came about that one of these people always took care of it.

Q. Who was present as a technician or technical assistant at the time the third death occurred that you witnessed?

A. The situation was surely always the same. I cannot say exactly which of these men happened to be present in this case.

Q. Approximately when did the first death occur?

A. At the end of April.

Q. 1942?

A. 1942, yes.

Q. When did the second death occur?

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A. That must have been about May. Perhaps about the 12th to the 15th - about the middle of May.

Q. When did the third death occur?

A. I believe that was on the next day or the second day afterwards.

Q. When the first death occurred, who assisted in taking the dead experimental subject out of the chamber?

A. I can't say for certain, but it was probably so that Rascher sent Neff over to the mortuary to announce it and that two prisoners came from there with a stretcher to take the body away.

Q. Where was the autopsy performed?

A. In the mortuary which belonged to the hospital.

Q. Who assisted in taking the dead victim out of the chamber when the second death occurred?

A. That was in the same way. The prisoners who worked in the mortuary, who were assigned to the mortuary, took away the body.

Q. Who assisted in taking the victim out of the low pressure chamber when the third death occurred?

A. That was no doubt the same two prisoners who took the body away from the chamber on a stretcher.

Q. I have no other questions at this time.

THE PRESIDENT: The Tribunal will be in recess until 9:30 o'clock Monday morning.

(A RECESS WAS TAKEN UNTIL 0930 hours, 5 May 1947)

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Court No. 1

Official Transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 5 May 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court room.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are all present in court.

THE MARSHAL: May it please, Your Honor, all the defendants are present in the court save the Defendant Oberhauser who is absent due to illness.

THE PRESIDENT: The Secretary-General will note for the record the presence of all the defendants in court save the Defendant Oberhauser who is absent on account of illness. I have a note from the prison physician certifying that Defendant Oberhauser is unable to appear in court today. She will be excused pursuant to this certificate, it appearing that her absence will in no wise prejudice her case.

Counsel may proceed.

Dr. HANS ROEMER - Resumed

RE-DIRECT EXAMINATION

BY DR. VOERMEER (Counsel for the Defendant Roemer):

Mr. Roemer, what activities, in detail, were in-
volving the taking care of the electro-cardiogram?
The attending to the electrocardiogram began with putting
the arm bands connected with the metal plates on the arm
of the subject and starting the current. This had to be
done before the experiment began. Then the apparatus had
to be cut into the circuit, the little dot that registers

the movements on the film had to be started, and then this moving point of light had to be observed, and at the moment when you wanted to record the motion the film had to be set in motion and this registered the actual electrocardiogram curve.

Q Now I can repeat then, in order to be perfectly sure that I am right, that attending to the electrocardiogram in detail involves the following activities: first, putting on the electrodes, secondly, cutting in the machine itself, the amplifier, then adjusting the point of light, then observing the point of light, and, fifth, setting the film in motion. Is that correct?

A Yes, that is so.

Q Now, will you please concentrate on the experiment in which the first death took place. In this experiment, who took care of putting on the electrodes?

A Rascher, since this was his experiment, and since he laid particular importance on registering the electrocardiogram.

Q Why was Rascher so interested in registering the electrocardiogram record?

A That probably interested him particularly. He had already spoken of Fahrenkamp. As we have now seen from the documents, he intended to work out the whole thing and evaluate it with Fahrenkamp.

Q You have said, though, that Fahrenkamp was not present at these experiments.

A That is correct, the experiments were broken off first.

Q Was Fahrenkamp a specialist in any field?

A He was a heart specialist, so far as I know.

Q In other words, you believe that Fahrenkamp was to have been included in these experiments because they were

experiments in which the activity of the heart and thus the control of the heart activity through the electrocardiogram played an important role? Is that correct?

A. Yes, that is so. That can be seen from Himmler's letter.

Q. What letter are you referring to?

A. The letter of 13 April, 1971 b PS, Exhibit 51.

Q. And are you, therefore, of the opinion that in those experiments which Rascher performed, alone he was particularly interested in the activity of the heart and therefore in observing the electrocardiogram?

A. Yes.

Q. Are you also of the opinion that even if you had wanted to attend to the electrocardiogram Rascher would not have permitted it because thus he would have been leaving up to you what was the most important thing to him in his own experiment; is that correct?

A. Yes, he was interested primarily in the electrocardiogram, and he had to check it himself.

Q. Now, to return to the experiment in which there was the first death. You said that Rascher himself put on the electrodes. Now, who cut in the amplifier?

A. Rascher himself did that, and he also adjusted the point of light.

Q. And who observed the electrocardiogram during the experiment?

A. Also Rascher.

Q. In your affidavit, this is the first document in prosecution document book number 2, it states that you had studied the electrocardiogram during this first experiment. Now, let me ask you, Mr. Rosenberg, this word "study", was that a word that you chose?

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A. No, I probably said that I took a look at it, or something of that sort, but I certainly didn't say "study", because this was such a minor thing for me that when I drew up this affidavit I didn't lay any great importance on it.

Q. Do you remember the interrogation on the basis of which this affidavit was drawn up?

A. Not in detail.

Q. Do you remember whether in that interrogation you gave an answer to each individual question?

A. I can't say that for sure today but I certainly did not use this word "study" when I gave my answer.

Q. If you wanted to characterize this situation correctly, what word would you substitute for the word "study"?

A. Well, I probably said at that time that I looked at the electrocardiogram.

Q. You mean to say, then, that your activity at the experiment was not one of supervision in which you observed the electrocardiogram, but you wanted to say that because you were present you more or less by accident cast a glance at the electrocardiogram, which draws attention to itself anyhow because it contains an electric spark which from time to time lit up and moved. Is that correct?

A. Yes, there is a point of light moving on a little screen.

Q. In this first fatality who started the film in motion?

A. Rascher did, on the basis of his constant observations there ; when he wanted to have a part of the experiment registered on the screen he cut the film in.

Q. I assume further that running this machine involves also turning off the film. Now who turned off the film and took it out?

A. That was done by Rascher also, and he sent it to be developed.

Q. Now, according to what you have said, there are six stages in attending to the electrocardiogram; now if the Prosecution is of the opinion that in this experiment you took care of the electrocardiogram, then you must have done all of these things yourself; now which of these six individual activities did you carry out in the experiment in which the first death occurred?

A. None of them.

Q. Did you take part in this experiment in any other way than by attending the electrocardiogram?

A. No, Rascher was in charge of the experiment, and of course he did everything.

Q. But as Rascher's assistant or for Rascher you could have done certain things or you could have taken care of the electrocardiogram or gone on an errand of some sort in support of the experiments of Rascher, but now concentrate on the experiment which had the first fatality and tell me, since you have already said you didn't attend the electrocardiogram, did you do anything else in this experiment?

A. No, and Rascher was very much concerned to carry out his experiments himself when he was in charge of the experiments.

Q. Am I correct in my assumption that the experiment could have been interrupted by turning a little wheel?

A. Yes.

Q. Who took care of this wheel, and when he turned the wheel what happened?

A. This wheel controlled the entry of the air into the chamber. Rascher had the wheel in his hand, and by turning this wheel one way or another he regulated the altitude.

Q. Did Rascher have this wheel only occasionally in his hand, or did he have it in his hand throughout the experiment?

A. You had to keep it in your hand all of the time in order to regulate the altitude.

Q. Now, I ask you, would it have been possible for you to reach this wheel without attacking Rascher first?

A. Since he had it in his hand, I should have first had to remove his hand from the wheel.

Q. Then it is correct for me to assume that in order for you to stop the experiment prematurely you could only have done something

if you had attacked Rascher?

A. Yes.

Q. Now for the second experiment, the one that involved the second fatality; now in this experiment who took care of the electrocardiogram?

A. Rascher must have, but I don't know about this in detail any more because I didn't pay any attention to it.

Q. Now please just think of this second experiment; did you not see the dotted light that moved in the electrocardiogram?

A. In the second experiment I was in the anteroom of the chamber because we had just finished performing experiments ourselves, and I was still engaged in evaluating the experiment just concluded; thus I didn't pay too much attention to these details.

Q. Were you present at all three of these experiments only because you were still evaluating the experiments you had just carried out on rescue from high altitude and just happened to be at the chamber still, is that correct?

A. Yes, I always evaluated these experiments sitting on the bench in the chamber because the tables of altitudes were in there, and I transferred my notes to the record book.

Q. We have heard here from various witnesses, particularly prosecution witnesses, that at most of Rascher's experiments you were not present. Now, according to what you have just said, your presence in these three cases where there were fatalities is to be attributed solely to the fact that Rascher's experiments took place altitude and that for that reason you were still jotting down notes on these experiments and happened by accident to be still at the chamber, is that correct?

A. Yes.

Q. In this second experiment where you were sitting and making notes, did you see the electrocardiogram?

A. No, I did not observe it.

Q. Was this the only experiment that Rascher carried out at that particular time or had he performed other ones previously alone, one or two or three or four or five perhaps?

A. He had carried out others before, I think about three.

Q. And then in the fourth one on that day there was a fatality?

A. Yes.

Q. In this second fatality, did you warn him?

A. No, I didn't pay much attention to it. I couldn't see a fatality was imminent.

Q. Do you know for sure that you didn't warn him?

A. Since I didn't observe the experiment I certainly did not warn him.

Q. If you had observed it you would have warned him?

A. Certainly.

Q. Then am I correct in saying roughly the following: So far as you observed the electrocardiogram in this second experiment and realized that the experimental subject was in danger, to that extent you warned him, but you do not remember whether you realized it and whether you observed the electrocardiogram. Is that correct?

A. No, I did not observe it.

Q. And consequently you could not have warned him.

A. That is so.

MR. HARDY: May it please Your Honor, we are all fully aware that the bench has granted considerable latitude to both prosecution and defense counsel during the course of examination, but it seems to me that defense counsel this morning has just been giving us a parade of leading questions and answering for the defendant. I request that the questions put to the defendant be put so that the defendant can answer them and not defense counsel.

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THE PRESIDENT: Defense counsel has been asking leading questions. I suggest that the questions be asked in such a manner as not too closely to suggest to the witness the answer. Counsel may proceed.

Q Then, in this second case of death, witness, did you attend to the electrocardiogram or take an active part in the experiment in any other way?

A No, as I have already said, I did not.

Q And, how, how about the third fatal experiment of Rascher in your presence?

A The situation was similar, namely, first we had carried out experiments and then Rascher had carried out experiments and, for this reason, I was still in the low pressure chamber.

Q Do you know whether, in the case of this third experiment, you warned Rascher?

A No, since I paid no attention to that experiment, or rather to the electrocardiogram, I didn't warn him.

Q The prosecutor has charged you with not knowing the names of the experimental subjects. What was your training in the Wehrmacht?

A I had basic training in 1936 and 1937 for two months and subsequently was in maneuvers on two occasions.

Q Now, do you remember the name of the man who gave you basic training?

A No.

Q As I remember, you took a trip through France with Lutz and the low pressure chamber. Can you remember anyone who, on the occasion of your trip through France with the chamber, made a high altitude experiment with it?

A No, I remember there were a couple of Knight's Cross bearers, but I certainly don't remember any names.

Q When did you conclude your maneuvers with the Luftwaffe?

A Summer of 1939.

Q And since then you have not been a soldier?

A. No.

Q. In other words, throughout the entire war you were not a soldier but a civilian?

A. That is correct.

Q. In the three fatal experiments of Rascher's did you carry a weapon?

A. No, I didn't carry a weapon nor did I even own one as a civilian.

Q. Did you wear a uniform during these experiments?

A. No, I didn't even own a uniform. I was a civilian.

Q. Did Rascher wear a uniform in these experiments?

A. Yes, of course, he wore his Stabsarzt - Captain's uniform.

Q. Did he carry a weapon?

A. Yes, he always carried his revolver.

Q. Now, if you had wanted to interrupt these experiments for any reason, you, as a civilian, would have had to attack a Captain in the Wehrmacht and hinder him by force in the execution of his duties? Is that correct?

A. Yes, that is correct.

Q. Is it correct that if you had wanted to interrupt this experiment, you, as a civilian, without a weapon, would have had to attack an officer who was carrying a weapon? Is that correct?

A. Yes, that's what I should have had to do.

Q. Before the first fatal experiment, did not Rascher say to you at various times that these were not the experiments that you were carrying out in common, but that these were experiments that he was carrying out alone on Himmler's orders and which had nothing to do with you?

MR. HARDY: May it please Your Honor, this defeats me. Doesn't defense counsel know what a leading question is?

I suggest that the Tribunal instruct defense counsel in these matters.

DR. VORWERK: Mr. President, I am about to ask when, in what words, and on what occasion Rascher told the witness that these were his own experiments and not common experiments.

MR. HARDY: That's very true, Your Honor. He is about to ask that, but no evidence to date has brought out the fact that Rascher had said that.

THE PRESIDENT: Counsel may proceed.

BY DR. VORWERK:

A. To answer your question, I already said in my direct examination that when Rascher began experiments of his own in addition to our common experiments, and I asked him about them, he told me that the experiments had been ordered by Himmler and that they were to be the means through which he hoped to qualify as a professor.

Q. Did he ever threaten you - saying that if you tried to interfere in these experiments....

THE PRESIDENT: (Interrupting) Counsel, you're propounding a strictly leading question by asking the witness if Rascher said to him certain things. Ask him what Rascher said to him and then the witness can testify as to what Rascher said. That makes the question not a leading question. When you repeat Rascher's words to the witness, you are asking leading questions. Just ask the witness what Rascher said upon a certain occasion.

BY DR. VORWERK:

A. Mr. Romberg, did Rascher, on any occasion, say anything to you about his own experiments?

A. As I just said, he told me that these experiments did not concern me; that they were his experiments and that he

was carrying them out on Himmler's orders.

Q When did he say this?

A He told me this when he began his experiments while we were still carrying on our other experiments - namely, before this first fatality.

Q Did he say this to you once or several times?

A He said several times that these experiments had been ordered by Himmler, and particularly, when I objected to these experiments after the first fatality, he said again that this did not concern me; that I should not bother myself about matters that were not my concern. He had the orders and he had to carry them out.

Q Were there threats connected with what he said?

A Well, he didn't threaten me openly, but I do remember that he once said that if I didn't stop objecting he would cancel my passe while I was in the camp.

Q What would this have meant?

A That would have meant that I couldn't leave the camp any more.

Q What were your human relations with Rascher? Is the prosecutor correct in his assumption that you were good friends; that you used the familiar form of the personal pronoun, and that you called him Sigmund?

A No, that is not true at all. I addressed him always with the formal personal pronoun. My relations with him were purely official and I called him Mr. Rascher.

Q Can you find anything in the correspondence or the documents that could substantiate this point of view of the prosecutor?

A No, I know of no evidence for that in the documents and, in fact, there are, in the documents, several statements of Rascher's - in the documents which have been

submitted - which reveal that he was hostile to me.

Q Since you were opposed to Rascher's experiments, is it correct in assuming that you regarded these three fatalities as murder, pure and simple?

A No, I couldn't regard these experiments as just plain murder because he had been ordered by the very highest authorities to carry out these experiments. I, however, wanted to have nothing to do with them, and that was why I reported to Ruff.

Q In cross-examination, the prosecutor said that it wouldn't have bothered you a bit if all the inmates of Dachau had died. Do you think you can prove the contrary?

A I certainly didn't expect that charge, because, subjecting myself to personal danger, I was the one who organized getting the chamber out of Dachau. I was the one who reported, and I refused to have anything to do with any subsequent experiments of Rascher's.

Q And why did you act in this way?

A My reason was that I didn't want to have anything to do with these experiments of Rascher's, and it was my opinion that these experiments were valueless and not necessary for the Luftwaffe or for aviation research, so that experiments which do not fulfill a pressing or urgent purpose should not be carried out under such conditions as these.

Q The prosecution is further of the opinion that no other fatalities could have occurred if the barometer which you had had repaired had not been repaired. Is that correct?

A Rascher would certainly have been able to get hold of such a barometer, perhaps he could even have got one in Schongau at the airfield in his office, or, at least,

Q a similar instrument. Otherwise, in view of the assistance and the top priority that he was given by the SS, he certainly would have been able to get hold of such an instrument. In other words, the important thing wasn't that we repaired this barometer.

Q Now another question, Mr. Rosenberg. How long were you ordered to stay in Dachau?

A Until the experiments on rescue from high altitudes had been concluded.

Q After these experiments were concluded you would not have been under orders to stay in Dachau even if the chamber had remained there?

A I personally could have left, of course, just as the chamber was in Dachau before I got there; so after my experimental series was finished I could have left and the chamber could have been removed from Dachau later, either by Rascher or the camp administration.

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Q Moving the chamber from the Camp was not your Job?

A No.

Q What was the reason that you acted over and beyond your orders?

A I did everything I could to get Rascher's promise to move the chamber, although, he didn't want to give that consent and it is quite clear that I stayed until the very last moment, until I was absolutely sure that the chamber was going to be moved from Dachau. That was the reason why I stayed there.

Q. What was the lowest decoration for a soldier in Germany during the war?

A. So far as I know, it was the War Merit Cross, 2nd Class.

Q. And what was the lowest decoration for a civilian?

A. Also the War Merit Cross, 2nd Class.

Q. And what Decoration did you receive?

A. The War Merit Cross, 2nd Class.

Q. You were present at the Nurnberg Cold Conference?

A. Yes.

Q. If you realized that concentration camp inmates had been used in the freezing experiments, why did you not raise an objection at this conference?

A. I saw at this conference that the experiments had been carried out on official orders. I had already clearly expressed my personal opinion of these experiments before. Ruff had passed this information on. And at the Nurnberg Conference there were much higher offices or ranks represented, who in part may also have realized it. I know, for example from what Dr. Alexander has said that many of them realized this, but that they said nothing. My position during this whole time was so weak, on the one hand, because of the refusal to Rascher and Himmler, and on the other hand it was quite clear; so that I really saw no reason for my raising an objection at this Nurnberg conference.

DR. VORWERK: Mr. President I have no further questions .

THE PRESIDENT: The Tribunal has several questions to propound to

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the witness.

BY JUDGE SEBRING:

Q Dr. Remberg, as I understand your testimony, you and Dr. Ruff, were ordered to Dachau to collaborate with Dr. Rascher in a series of tests to determine the possibilities of rescue of high altitude?

A Yes.

Q And while you were there you were actually under the command of Dr. Rascher?

A I was not under Rascher's command as a Stabsarzt in the Luftwaffe. I was under the command really of the camp commander while I was in the camp.

Q But so far as the experiments themselves were concerned and the control over the low pressure chamber, Dr. Rascher had responsibility in that particular, is that correct?

A Yes.

Q Before you and Dr. Ruff went to Dachau to perform your experiments had similar tests been made by the German Luftwaffe or for the benefit of the German Luftwaffe?

A You mean similar experiments?

Q Yes.

A Yes, in the DVL we carried out similar experiments, and at other institutes also, working for the Luftwaffe similar experiments were carried out.

Q In other words, the experiments that had been carried out prior to that time did not differ from the experiments that you carried out at Dachau?

A This was a continuation of an experimental series which was already under way and as is always the case in experimental series, differed from preceding experiments changing the conditions increasing the altitude the cold, etc.

Q Just what were you attempting to determine in the Dachau experiments that had already been determined or ascertain by your previous tests?

A The main task was to investigate rescue at heights

as great as 20 kilometers to find out whether rescue of airplane crews is possible at such a high altitude at all. Therefore it had been ascertained that the crew survives the explosive decompression which occurs at such an altitude when the pressure cabin develops a leak, and now we wanted to find out whether the person could be brought safely to earth from this altitude.

Q. Who gave the order for you and Ruff to conduct these experiments?

A. That was arranged by Ruff in his talk with Professor Hippke, the Medical Chief.

Q. Was the order a written or an oral order?

A. So far as I know, it was an oral order of Professor Hippke.

Q. From whom did you learn this fact?

A. From Dr. Ruff.

Q. Before going to Dachau, did you or Ruff discuss your assignment with anyone other, of course, than the discussion that you said you had with Woltz in Berlin in December 1941 or January 1942?

A. After the discussion that Ruff had first with Woltz and then with me, Ruff went to Hippke and got his approval, and the next discussion took place with Woltz in Munich.

Q. In other words, at the time that you and Ruff had the discussion with Dr. Woltz, the approval for these experiments or the tests at Dachau had not yet been approved by Hippke?

A. Yes, when Woltz came to Berlin for this discussion and discussed this problem with Ruff he had already told him that in the summer of 1941 Hippke had given his approval on principle for such experiments and that Hippke, along with Kettenhoff and Rascher, had discussed the question of these experiments.

Q. Now, who did you understand that Hippke had given the approval to that Woltz told you about -- to Rascher?

A. Just what took place in detail at these conferences I can't

say because I wasn't present; it was a discussion in which Professor Woltz, Kottenhoff, and Rascher talked with Hippke about the experiments, and at this discussion Hippke gave his approval on principle.

Q. Then, after the Woltz conference, as I understand it, Dr. Ruff went to Hippke, to confirm the approval and to get actual approval of your test team, Ruff and Rosenberg, and he came back and reported that fact to you?

A. Yes.

Q. Then later, in January or February 1942, you and Ruff went to Munich and had a conference with Woltz and some other gentlemen?

A. That is right, yes.

Q. After Ruff returned from getting his approval from Hippke, but before you and Ruff had your conference with Woltz in Munich in January or February 1942, with whom did you discuss this assignment?

A. Only with Dr. Ruff.

Q. You are quite confident, then, that neither you nor Ruff discussed this assignment with anyone else prior to that Munich meeting?

A. I certainly didn't talk about it, and Ruff only talked about it to Woltz on the occasion of that first visit in Berlin.

Q. Was the reason for that the fact that was a more or less secret or confidential assignment?

A. It was an experimental series, involving experiments at high altitude, in this case up to 20 kilometers, so that a technical development was apparent from the problem as given. Now all experiments in which the subject of the assignment or the title of the report shows a technical development of the planning of a technical development of some sort, were always secret; in fact, they were top secret.

Q. In the tests that had been conducted by you and Ruff, prior to your going to Dachau, can you state how many experimental subjects had been used?

A. The experiments in our institute -- I know most about them -- for the first experiments in parachute descents from 12 kilometers, we used six or seven experimental subjects; for the explosive decompression we used just about everyone available at our institute, namely about eight at the most.

Q. Now, before you would begin an experiment of that kind, the ones you conducted in Berlin, I suppose that it would be an important thing to know something about the physical health of your experimental subject prior to the time you begin; would that not be true?

A. In our Berlin experiments, we did not give the experimental subjects a physical examination everytime. We knew the men, because they were almost always the same people. On the other hand, sick people, people for instance with a heart defect, were not among them; therefore, a special examination was not necessary.

Q. In other words, these men at Berlin, I take it, were men in the air force; and you had the personal data on

them; you know their names, their ranks, their age, their heart condition, their blood pressure, perhaps the condition of their other vital organs. They had had to undergo a complete physical examination, as a matter of fact, before they were ever admitted into the air force; is that not correct?

A. No, that is not quite correct, because we were a civilian institute, and the experimental subjects were ourselves -- our own associates. I was the experimental subject, let us say, for an experiment of Ruff, and our mechanic Fohlmeister, whose book has been submitted here, was frequently a subject in experiments; and other associates of mine were also experimental subjects. None of these were members of the Luftwaffe, but civilians whom we knew personally, but not in such great detail as would result from reading a report on an army physical examination.

Q. Well, they had undergone physical examinations of one sort or another; had they not?

A. Well, we asked our associates whether they were in good health, whether they had a heart defect, etc., but we did not give them a real physical examination, such as was given to determine physical fitness for the air force.

Q. How would they know they were in good physical health? Suppose that I, for example, presented myself to you for an examination and said that I was in good physical health; it wouldn't necessarily follow that that would be a true statement of fact, unless you know something about my heart condition, my blood pressure, and the like; would it?

A. Yes.

Q. Then I suppose that when a test was run every day in

your Berlin tests you might run one test or two tests, perhaps something of that sort? -- then in order to accumulate your scientific data or your final analysis and reports, I assume that you would have a card for the experimental subjects; "A", let us assume, and on that you would set out your findings as to "A" in a particular experiment of a designated kind, conducted at a certain time, and you would show the result of that test, all on the one card; is that correct?

A. We did not have a special card for every experimental subject, but entered this data in a record book. Supervision of their state of health were undertaken at regular intervals, not in connection with the specific experiment, but we took x-rays, an electro-cardiogram, and in this way kept an eye on their over-all state of health.

Q. Precisely. Then, when you would finish with an experiment, perhaps you would have had let us say, for example, 100 tests on various experimental subjects. At the end of that one hundred tests could you look at your minutes, or your card, or your file, or whatever you maintained, and determine how many and what kind of tests each of the experimental subjects had undergone during the course of the research experiment; I am talking about in Berlin.

A. Yes, we could see that from the record book.

Q. In other words, it would be impossible to have any sort of an experiment for the purpose of research findings that would be worth anything, unless you had kept meticulous records from which the final report could be made; is that not correct?

A. Yes, of course we always kept a record book of such experiments.

Q. When did you actually arrive at Dachau, prepared to begin the Ruff-Romberg experiments?

A. I arrived about the 20th of February. Things did not start off right then, but we went out for the first time on the 21st or 22nd of February; the 22nd was Sunday, so it might have been the 23rd. Then there was the difficulty with Rascher's orders, and the experiments were broken off again by the Reichsfuehrung. Rascher went to Schongau and I returned to Berlin and waited for news from him, as to when things had finally been put in order. I was certainly in Berlin on March 9th and on the 10th or 11th, I probably again arrived at Dachau, and on this day the actual experimental series began.

Q. Then you would say that your first tests began on 10 - 11 March, 1942?

A. Yes; I cannot say for sure, whether or not on the 23rd or 24th of February a couple of experiments were performed; however, the real work began on the 10th or 11th of March.

Q. Can you recollect what day the tests were finally concluded? I am speaking of the Ruff-Romberg tests.

A. The experiments came to an end one or two days before the chamber was taken away; the last day was spent in packing, and the chamber was driven out of the camp of Dachau on the 19th or 20th of May, while I was personally present.

Q. During that period, from your arrival until the chamber was finally taken away, how many tests were actually made in your experiments?

A. It is hard to give the precise number, but there were certainly between two and three hundred experiments.

Q. And these two and three hundred tests, as I understand it, were for the purpose of determining the possibility of rescue at high altitudes; that is to say about 20,000 meters?

A. Yes, that was their purpose.

THE PRESIDENT: The Tribunal will now be in recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

MR. HARDY: May it please Your Honor, in compliance with the ruling of the Tribunal of last Friday, I have just received the complete translation of Document 1602-PS; and if you would like to have me wait until later I will distribute it then or do it now, whichever the Tribunal desires, as a substitute for the Document 1602-PS which is now in Document Book II. I have it completely translated and copies of German and English available now.

THE PRESIDENT: You may hand the copy to the Tribunal now.

MR. HARDY: The original exhibit is handed herewith to the Secretary General.

EXAMINATION

BY THE TRIBUNAL (JUDGE SEHRING):

Q. Dr. Ramlor, just before the Court took its recess you made the statement that during the period you were at Dachau conducting the Ruff-Romberg experiments you estimate that between 200 and 300 tests were made. Can you tell the Tribunal approximately how many of these tests were parachute drop tests and, on the other hand, how many of them were explosive decompression tests?

A. Yes. The parachute drop experiments from high altitudes, that is to say, altitudes over fourteen or fifteen kilometers, all had to be preceded by explosive decompression into the high altitude, the altitude of the actual experiment. In the case of a slow ascent up to thirteen kilometers, for instance, there is no high altitude sickness. On the other hand a slow ascent up to twenty kilometers would result in high altitude sickness, even with oxygen. Therefore, one ascends slowly at first in this experiment, to about eight kilometers, and then goes on with explosive decompression to the altitude of the experiment proper, the altitude from which one is to jump.

Q. The point is, then, that all of these two hundred to three hundred tests included the combination of explosive decompression and the parachute ascent?

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A. Not all of them; only those that went above the altitude of fourteen or fifteen kilometers; all of these were connected with explosive decompression.

Q. Of the two hundred or three hundred tests that were made at Dachau, how many would you estimate went above the fourteen or fifteen kilometers?

A. I think approximately half went up to a higher altitude and were therefore connected with explosive decompression. Perhaps not quite half of them, because toward the end not so many experiments were carried out.

Q You arrived at Dachau somewhere around the 20th of February 1942?

A Yes, February 22 or 23.

Q And perhaps one or two tests were made on this day, and you then went back to Berlin because some difficulty had arisen concerning who was in command, or something of that sort. What was that difficulty?

A There were difficulties regarding Rascher's being assigned to Dachau. These difficulties were in part connected with his being assigned to the Woltz Institute, and on the other hand his assignment to Schongau.

Q With whom was the matter taken up in Berlin to straighten out these difficulties?

A I had nothing at all to do with that. I did not negotiate on that question at all. Rascher settled that with the Air Gen at Munich. I personally had nothing to do with his military assignment.

Q Then you came back to Dachau some time around the 10th or 11th of March. Were you ordered back to Dachau?

A No, it had been agreed from the outset that we were going to carry out the experiments. Only an interruption had taken place, which was overcome after the difficulties were eliminated regarding Rascher's assignment.

Q How many tests had you run at Berlin on the same experiment before you moved down to Dachau?

A I can not tell you that exactly, but in the parachute jump experiments, I am sure there were about twenty or thirty. In those cases the altitude was much lower. As far as explosive decompression is concerned, we performed a considerable number of experiments.

Q How many would you say?

A I am sure there were approximately two hundred

explosive decompression tests.

Q Over what period of time had these tests been made?

A The parachute work had been concluded in the fall of 1941, and the explosive decompression tests were carried out up to the time of the beginning of the experiments at Dachau, about four months.

Q Then over a period of four months you conducted about two hundred explosive decompression tests at Berlin?

A Yes.

Q And how many people did you have as experimental subjects for your explosive decompression tests, by which I understand tests made at altitudes above fourteen or fifteen kilometers?

A They went up to seventeen kilometers, and as to the number of the experimental subjects, you will have to keep in mind these were members of the Institute. There were about seven.

Q Were the people used in Berlin for the parachute drops at altitudes under fourteen or fifteen kilometers a different group than that used for the explosive decompression tests?

A No, we always had the same people in Berlin. That was just the difficulty. We did not have a large number of subjects; therefore, we had to conduct various series of experiments on the same people; during the explosive decompression experiments we carried out a large number of airplane experiments, centrifuge experiments, and experiments regarding the shock deceleration, that is the shock of the parachute opening, or the braking effect in crash landings.

Q As an expert in aviation medicine, what was your view as to how often an experimental subject should be

exposed to an explosive decompression test? That is to say, how much time should elapse between one experiment or test, and the succeeding test?

A. Explosive decompression is not the most strenuous part of the experiments. The altitude which is reached plays a considerable part, and the lack of oxygen which occurs as a result. In Berlin we performed explosive decompression experiments among ourselves, several times a day. We performed several on one day, and then we carried out other experiments, there were test flights when there was good weather, and then we went back to the chamber.

Q. How many tests a week did you conduct your experiments at Dachau? Did you work seven days a week?

A. No, there were no experiments on Sunday.

Q. Did you work on holidays?

A. No, at Easter, for instance, I was in Berlin, and there were never any experiments carried out on Sunday.

Q. How many German holidays were there in that period of time, do you recollect?

A. I think there was Easter; then there was the 1st of May, which was a holiday. Then there was Ascension Day, which was surely a holiday, and then there were all the Sundays.

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Q. At the Easter holiday, how many days did you take off? Good Friday? ~~Saturday~~? Easter Monday, perhaps?

A. Yes, and Monday too?

Q. Then, at the Easter Holidays, in addition to your Easter Sunday, there were three days that you did not experiment?

A. Certainly, yes.

Q. How many days did you take off on Ascension holiday?

A. I was not in Berlin for Ascension Day; there was probably only one day taken off.

Q. And on 1 May, one day?

A. I was in Berlin 1 May. At that time there was this barometer business, so that I was in Berlin for some time. I remember definitely that I was in Berlin on 1 May.

Q. When you actually reached Dachau to stay, along about-- Well, when your first came to Dachau, the 23rd of February, where were you billeted in the camp?

A. I was not billeted in the camp. I had a civilian apartment. I was living with a farmer or somebody, a private citizen, outside the camp.

Q. How far away from the camp?

A. I think approximately twenty or twenty five minutes walk from the camp.

Q. Did anyone share this billet with you, or this apartment?

A. No, I had a room with these people, which I rented.

Q. Did you ever discuss with them your reason for being in Dachau?

A. No, naturally not.

Q. Where did you mess during the time that you stayed in Dachau?

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A. I had my noon meal in a little restaurant outside the camp, or else I did not eat at all. In the evening I often went in to Munich, and had supper there. If not I always ate at the restaurant in Dachau.

Q. During that time, did you discuss with anyone-other, of course, than Rascher or Ruff or some of the inspecting officers who might come to Dachau- the experiments you were conducting and the reason for your being in Dachau?

A. No, I don't think that I talked to anyone, apart from those persons whom you have mentioned.

Q. Did you keep the same billet or apartment and the same mess during all the time that you stayed in Dachau?

A. No. Afterwards I was given a room in the SS barracks, which was outside the camp, but as before I ate at that restaurant which I mentioned.

Q. When you were in the SS barracks, did anyone share your room with you?

A. No, I had a room to myself.

Q. But there were in the SS barracks a great many SS people?

A. Yes. This was an officers' barracks where other SS officers were living, and there was also some office space there.

Q. Those were SS officers in charge of the details of running the camp, in charge of the prisoners, and that sort of thing?

A. No, these SS officers, as far as I know, did not belong to the guard company of the camp, but belonged to the garrison, the regiment, or whatever it was, which was stationed at Dachau.

Q. I believe you said on Friday that there were

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between 60 and 70 inmates of the camp who volunteered as experimental subjects for the high-altitude experiments which you and Ruff, in collaboration with Rascher, were going to conduct in the low-pressure chamber experiments.

A. Well, according to what the experimental subjects told Ruff and me, approximately 60 persons volunteered specifically for the low-pressure experiments.

Q. And I understood that the minimum requirements for the operation of the low-pressure chamber was two men, one, the physician in charge, and the other, the mechanic who operated the engines.

A. The physician, of course, was necessary. The mechanic did not have to be present constantly to attend the engines. Once the pumps were working and the motor was running, everything was all right. The mechanic had only the task to supervise the engines, to oil them whenever necessary, etc., to see to it that no pump was ever running hot. However, it was not necessary to service the engine continuously. The whole apparatus was kept very simple because it was meant for service with troops, and they did not always have experts available.

Q. During your series of authorized experiments, who were the men who acted as the mechanics for this low-pressure chamber and who ran the engines and looked after them?

A. In particular, Sobotta took care of the engines. He knew something about them, and then there was another person among the experimental subjects who knew about motor cars. Neff sometimes concerned himself about them, but mainly there were these two men who were experts.

Q. Sobotta and Neff, then, were the experts.

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A. No, the expert was another one. He was a motorcar mechanic.

Q. What was the name, do you know?

A. I don't know that any longer.

Q. What was Neff doing in the camp? Do you know why he was there?

A. As far as he told me at the time and as far as he testified here, he was there because he had denounced a bomb attack which was to be carried through by SS men, in Austria, and after that denunciation the men involved had been arrested.

Q. How long had he been at Dachau?

A. He said at the time that very soon after the annexation of Austria in the year 1938 he had been sent to the camp.

Q. As a political prisoner?

A. Yes.

Q. What do you know about the man Sobotta?

A. I know of Sobotta that he was an Austrian and that for repeated burglaries he had been sentenced. As far as I know, he carried out a large-scale burglary in a big Vienna Bank or the Vienna State Bank.

Q. He, then, was a criminal prisoner, as you understood it?

A. Yes, he had received a number of sentences, and he was a professional criminal who, because of these repeated burglaries, had been put in preventive custody.

Q. Do you know what court had placed him in preventive custody?

A. No, I do not know that.

Q. Now, what do you know about the man, the expert in mechanics, whose name is now unknown to you?

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A. Why he was there, really, I can't tell exactly now. I think it had something to do with his knowledge of motorcars. I assume that he was carrying out burglaries in order to steal motorcars.

Q. But you don't know that?

A. I don't know that exactly.

Q During the period of time that you were in Dachau, just exactly what activity did Neff carry on that you know about? He ran the motor. I believe you said something the other day to the effect that he was in charge of bringing the experimental subjects to the chamber and returning them. What else did he do so far as you know?

A Neff was the so-called block eldest of these experimental subjects. He had to see to it that they kept their block properly. He had to get food for them, and in addition he carried out a number of errands for Rascher within the camp. For instance, he was often sent to the canteen in order to buy tobacco for the experimental subjects by order of Rascher. Sometimes he assisted during the experiments. He was occasionally sent into the room to get another experimental subject; when one man was finished Neff was sent after the next one; there were quite a number of such errands.

Q He was in effect then a camp trustee of some sort?

A I don't know exactly what the relationship was in that connection. He only had this small group under him; it was not a very high position. From a military point of view, you would probably designate that position as block eldest.

Q And, as I understand, he lived in the same quarters with the experimental subjects?

A Yes, he lived in the same quarters.

Q And ate with them, I suppose?

A Yes, he ate with them, although I remember that occasionally he went over to the hospital proper to eat.

Q And that is all he did though, so far as you know, in and around the experiments?

A Yes.

Q He never was an experimental subject?

A Yes, he participated in experiments. I forgot that now, but I had already mentioned it before.

Q I thought you said that only German criminal prisoners were

used for experiments?

A Neff was at this block, and upon his own initiative had volunteered for these experiments and was in a number of them, just as I participated in experiments.

Q Now, as I understand it, the sixty or seventy inmates who volunteered for the experiments were professional criminals who wore the green triangle?

A Yes, as far as I am informed.

Q All of them wore the green triangle?

A I didn't see all of these sixty. The experimental subjects said that altogether sixty persons had volunteered, and from these sixty our group had been selected as being suitable for the experiments from the point of view of physical condition and age.

Q And as you understood it, they were all German nationals?

A Yes.

Q And the reward held out to these volunteers was that some kind of leniency was going to be extended to them if they survived the experiments?

A Yes, they were promised that they would either be released from the camp or that their sentence would be mitigated. However, later, on the occasion of Himmler's visit, all of them were promised their release.

Q How do you know that?

A The experimental subjects naturally told me that enthusiastically when I went there the day after Himmler's visit. They said that they had subjected themselves to experiments before Himmler, and he had promised them that they would be released if they conducted themselves properly. They were jubilant about this.

Q In other words, over the period of time that you were at Dachau, from 9 March to about 20 May, you were in rather close touch with your ten or fifteen experimental subjects and had got their confidence, at least to the extent that they told you of the fact that

Himmler, after his visit, had promised them leniency?

A Yes, they naturally told me that.

Q About what time of the year was this?

A You mean the Himmler visit?

Q Yes.

A That must have been on a Sunday, the middle or end of April.

Q And when was it that the subjects told you what Himmler had imparted to them?

A They told me that on the very next day when I entered the station. That was the next Monday.

Q Do you know who had conveyed to these experimental subjects the statement of Himmler to the effect that these men were going to be granted leniency?

A They told me that Himmler had told them that personally when he was there.

Q Now, when Himmler was there, had he witnessed an experiment on these subjects or had they been produced to him for dress inspection, or had he visited their barracks. How did he come in contact with the group of them?

A Himmler had come out there to the camp as far as I know, with the main purpose in mind of looking at these experiments. Himmler's visit has been described rather exactly in Wolff's affidavit, which has been submitted among Ruff's documents. I don't know the number of that document.

Q What did the man, Sobotta, do around Dachau in connection with the experiments?

A Sobotta did nothing except serve the pumps, in addition to taking part in the experiments as all the others did. Sobotta had no special position at all. He, to be sure, was the most energetic fellow there, with the most initiative. He no doubt participated in the most experiments, but he held no special official position.

Q Where did Sobotta live, did he live with the other experimental subjects?

A Yes, he lived just like all the other experimental subjects.

Q He was quartered with them, and he was messed with them?

A Yes. He hadn't been brought out in any way from the others officially.

Q Now, this unknown man who was the automobile expert, what did he do around the experiments?

A Well, together with Sobotta, he worked in the pump car. Now and again he repaired Rascher's car, but otherwise he had no special task.

Q Where did he live?

A He lived together with that group.

Q And took his meals with them, I suppose?

A Yes.

Q How was he dressed?

A Just like all the other subjects. They had this striped prisoner's suit.

Q Do you know what his nationality was?

A He was a German.

Q So that of the three men who helped you conduct the experiments as mechanics, there was Haff, the political prisoner, Sobotta, the Austrian criminal prisoner, and this man whose name was unknown who you say was a German, and who you thought was a criminal prisoner because of some burglaries or thefts in connection with automobiles.

A Yes, he had been sentenced as a professional criminal.

Q And they helped you in your experiments during the entire period that you were there?

A Well, they didn't assist me in any particular way. As far as the two mechanics go, they had certain supervisory tasks in the same way as a driver looks after a motor car by oiling it from time to time, etc. That's what these men did.

Q I understand, but unless the engines ran you couldn't conduct experiments, and these were the men who looked after the mechanical details of the motor to see that it was in good order, so you could build up your pressure or diminish your pressure in your low-pressure chamber?

A Yes.

Q When you said that you had between ten and fifteen experimental subjects used in your experiments, I assume that you included those three men in your calculations?

A Yes, I included them.

Q So that aside from these three men you actually had twelve to seven experimental subjects rather than fifteen or ten?

A Yes, apart from those you are right.

Q When was the first time you actually saw and talked to the sixty or seventy inmates who had volunteered for the high altitude experiments?

A I never spoke to these sixty or seventy inmates, but only to the group of professional criminals who were billeted at the station. That was on the 22nd or the 23rd of February, which was the occasion on which I saw them for the first time.

Q. Now what do you mean by the group of professional criminals, just the entire group that were there, or the sixty or seventy inmates who had volunteered?

A. No, the group which was billeted at the station.

Q. You mean the ten or fifteen?

A. Yes.

Q. Well then, who told you there were sixty or seventy volunteers, Dr. Rascher?

A. No, these men told me that themselves. When I asked how they were selected, etc., they replied that a number of people had volunteered and from these Dr. Rascher selected us from the point of view of health and age.

Q. Was a list ever given you showing the names of these sixty or seventy men?

A. No, I didn't see the list of the other people.

Q. What physical or mental qualifications were the men who were to be finally selected for your experiments required to have?

A. For one thing their age had to range between twenty and thirty-five years approximately, which corresponds to the age of the flying personnel of the Luftwaffe. In addition, they had to be generally fit, that is to say, they couldn't under any circumstances have a weak heart or some liver illness; they had to be normal healthy men. Mentally, of course, no considerable requirements were made. They had to have normal mental capacity. For instance, feeble-minded people wouldn't have served the purpose.

Q. Now who fixed these physical or mental qualifications, you and Dr. Ruff? In other words, who determined the type of man that you wanted for your experiments?

A. No, Rascher selected them at the time we were in

Berlin. This was done on the basis of an arrangement that was made with the camp commander. It had been arranged that from the people who volunteered Rascher was to select this group. They had to fulfill this and that requirement, and after they were billeted at the station they had to receive good nourishment. They were not to work, etc.

Q. Who told Rascher that the experimental subjects who were finally selected had to be between twenty to thirty-five years of age, generally fit, with no weak heart or other internal ailments, and mentally normal?

A. That was set down on the basis of the conference in Dachau with the camp commander. Present were Ruff, Weltz and I, the camp commander, and Schnitzler.

Q. Whose decision was it that men between the ages of twenty to thirty-five, who were generally fit and mentally normal, were to be selected? Was it you who demanded that type of man, was it Ruff who demanded them, was it Weltz, was it the camp commander, was it Schnitzler? Someone had to determine what type of man you wanted to experiment on. Now, who actually determined that? You and Ruff were in charge of the experiments. Who actually determined the physical and mental attributes that your experimental subjects were to possess?

A. Well, surely Ruff and I. We were to carry out the experiments and we set the requirements. Who actually pronounced the requirements or whether they were laid down by discussion, I c n't say exactly now, but at any rate Ruff and I were the ones.

Q. But you knew the requirements you needed for the men in your experimental group because this was simply a continuation of the experiments that you had begun at Berlin, and you wanted men who as closely as possible had

the same physical and mental attributes as the experimental subjects in Berlin? Is that correct?

A. Yes that was one reason, but there was another reason which was also the reason we selected certain persons in Berlin. For instance, we didn't use any girls among the technical assistants, who might have volunteered. We bore in mind that all of these experiments were to serve the Luftwaffe and had to correspond to the personnel normally subjected to similar dangers in the Luftwaffe and, therefore, we had to have men of that age, not girls or sick people.

Q. When was the selection of the ten or fifteen experimental subjects from the sixty or seventy volunteers actually made?

A. I don't know the exact time, but when the chamber arrived at the beginning of February nobody was as yet billeted at the station, as far as I recall. When, on the other hand, I returned on the 22nd or 23rd of February, they were already there, so this must have happened during that period of time.

Q. Now, as I understand it, this was, as you say, a vitally important experiment for the benefit of the Luftwaffe, and as a consequence had to be carried out with great care, because from the results of these tests you were going to make recommendations to the Luftwaffe concerning matters which in actual combat might affect the life of the Luftwaffe members, isn't that correct?

A. Yes, we were trying to rescue people from high altitudes.

Q. And it was for that reason that it was indispensable and vitally necessary that you have experimental subjects who were between the ages of twenty to thirty-

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five, who were generally fit, and who were mentally normal?

A. Yes, in order to draw a good comparison with the normal personnel.

Q. Who was present when the ten or fifteen experimental subjects were selected from the sixty or seventy volunteers?

A. I don't know that. I am sure Rascher must have been present. He was the one who selected them. Who else

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was present I don't know.

Q In other words, Dr. Rascher actually made the selection?

A Yes.

Q What tests were given them to ascertain whether or not they had thumantal and physical qualifications for experimental subjects?

A There was a normal medical examination. In other words he listened to their hart and their lungs and conversed with them.

Q How do you know that?

A He told me about it and the experimental subjects also told me that they had been examined.

Q Then, as I understand it, before you began your experiments you talked with each one of these experimental subjects?

A I wouldn't say that I talked to these experimental subjects before each experiment, but by a large and ded converse with these persons in order to make their acquitance and in order to tell them what was a stake during these experiments. Naturally, the persons only gained a certain confidence in me as time progressed.

Q I^u other words, you wanted to get well acquainted with them so that they would make experimental subjects who would aid you in your tests. Because if they were not willing subjects they would act be as helpful to you as though they were willing subjects, is that the point?

A Yes, we wanted to have proper cooperation on the part of the experimental subject.

Q I suppose that from time to time you demanded not only proper cooperation but cordial cooperation?

A Well, yes, we had to depend on a certain amount of cooperation

Q And so the group being very small, only twelve to seven, with Neff eliminated, and Sabota eliminated, and the unknown man eliminated, you had a very small group, and in order to establish a relationship of good will, I suppose from time to time as each of them presented himself for the experiment, you said: "Where are you from? Why are you here? What is your name, and so forth?"

A. Yes, these two men, Sabota and the other did fully belong to that experimental group and participated in all our experiments. They were not isolated in any way from that group. And I naturally conversed with them frequently.

Q. In other words, you asked them, -- Well here was a man, perhaps the first experimental subject just walked up and you would say: Are you mentally fit? Are you mentally normal? Is your heart strong? Do you have any liver ailments? Are you generally fit, or what did you say to them. You were meeting them for the first time as an expert who had come to Dachau to conduct certain experiments? You were meeting them for the first time in a concentration camp. They were prisoners there. You were a complete stranger to them, except it was known you were an expert from Berlin who was going to conduct the experiments. Now I would think that there would be a considerable resistance on the part of the men to present themselves until first you knew them well, or in the other hand they knew you well so that they would have confidence in you and I would think moreover that in order to win their confidence you would want to know what their names were, and perhaps their background, what part of the country they had come from, what they were doing in prison, how well they were treated. -- I would think all of those things would be necessary in order for you to get the complete cooperation and the good will that was vitally necessary for your experiments, is that more or less correct?

A. Well, by and large, that is correct. Of course, one couldn't discuss all details in the same manner with these men. For instance, the subject of their own sentences was something about which they were very reticent and only gradually started speaking. As time progressed, they told what brought them to the camp. It is quite typical, and that is also contained in the Wolff affidavit, that Sobotka, when asked by Himmler what he had done, had said that he had merely smuggled coffee, but afterwards it had been found out that he repeatedly committed severe burglaries - breaking open banks. Naturally, they didn't talk freely about their sentences and about their life in the camp. The real acquaintance only developed as time progressed.

Q. But over the period of time you got well enough acquainted, I suppose, that some of them actually confided in you. At least, to the extent that you knew their ages, you knew their names, you knew where they were from, you knew whether they had families at home - that sort of thing?

A. Yes, naturally that varied. Some were more likely to converse with me, others less. For instance, one person who had forged money told me his entire background, including many details, on one occasion. At the beginning, however, he was rather reticent, but later he told me exactly how he was arrested and how he was forging the money, etc.

Q. And you certainly knew, over that period of time of relationship, that they were between the ages of 20 and 35, that they were generally fit, with no weak hearts or liver ailments or bad kidneys and that sort of thing - and that they were mentally normal?

A. Yes, naturally I didn't examine the livers of these people in detail. Rascher, by order, had carried out this medical examination, but one could see by merely looking at these people that they were fit, and I also discussed their health with them.

Q. Did you ever see the records upon which Rascher had set down the results of his examinations - either of the sixty to seventy volunteers or of the ten to fifteen men finally selected for the experiments?

A. His record about his own experiments - is that what you mean?

Q. No, no, you say that there were sixty to seventy volunteers; that from then he finally selected ten to fifteen experimental subjects who, by your direction in defining the necessary physical and mental requirements, were between ages of twenty to thirty-five, were generally fit and were mentally normal. Now, in order to determine that fact, he undoubtedly gave them physical and mental examinations. Did you ever see the list of the ten or fifteen men who were finally examined and who were found to have these physical qualifications? Did you ever see it?

A. No, I never saw that list and he didn't show it to me. He just told me, "I have examined these people and they are healthy."

Q. When the ten to fifteen experimental subjects were finally selected, what then became of the other fifty-five or forty or whatever was left over?

A. I can't tell you that in detail; I don't know what happened to them. Partly, I'm sure that they went back or rather remained at their work detail or wherever they were, and partly, I am sure, Rascher used these people for his own experiments.

Q. You think then that, of the forty-five or fifty who were left, Rascher used some of them for his experiments?

A. Yes.

Q. How do you know that?

A. He told me that he had volunteers for his experiments and that he was taking people who had already volunteered.

Q. I see. Rascher told you that, of those who were not selected for your experiments, he used some of that group for his experiments?

A. Yes, he said that some of these people who had volunteered had been taken by him.

Q. When did he tell you that?

A. I can't tell you that exactly - when it was - but I'm sure it was after he had started his own experiments along with ours.

Q. When did he start his own experiments?

A. I can't give you the exact date since he was performing these experiments during my absence and also at night. At any rate, I heard about that approximately in the middle of April.

Q. Who told you?

A. Rascher himself told me that. He said that he was performing additional experiments.

Q. And that was some time during the middle of April, 1942?

A. Yes.

Q. And he told you at that time that he was using, as his experimental subjects, some of the men who had originally volunteered?

A. He said that he had a number of experimental subjects who partly had been sentenced and were professional criminals, and partly some who had been sentenced to death.

Q. I know all about that, but in April, 1942, he told you that he was using some of that original seventy to sixty men who had volunteered for your experiments but who had not been selected?

A. I cannot tell that exactly. These persons didn't volunteer principally for our experiments, but made themselves available for experiments, generally speaking.

Q. I understand, and of that seventy to sixty you found fifteen to ten who had the physical and mental attributes for your experiments? Is that correct?

Q. Well, there may have been more in that group who had the same attributes, I don't know that. I think there were about thirty or forty in that age group but I cannot tell you that exactly.

Q. Did Rascher ever tell you that?

A. No, Rascher didn't give me any details about his affairs.

Q. Then you don't know whether the men he used for his private experiments possessed the physical and mental requirements laid down by you and Ruff or not, do you?

A. No, I cannot say that in every case.

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THE PRESIDENT: The Tribunal will now be in recess until 1:30
o'clock.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 5 May 1947.)

THE MARSHAL: The Tribunal is again in session.

HANS ROMBERG - Resumed

EXAMINATION BY THE COURT (Continued)

BY JUDGE SEBRING:

Q. Dr. Romberg, in the conduct of your tests in the Ruff, Romberg, Rascher experiment, what data or information was it necessary for you to record in regard to each test in order to get a true picture of that test?

A. In the experiments involving a relatively low altitude, the experimental subjects themselves wrote numbers from 1000 on up, or wrote their names. In experiments involving higher altitudes or in the little chamber, was difficult to write, there was a sort of telephonic connection with the experimental subject. The subject had earphones on and had a microphone so that one was able to ascertain how he reacted when spoken to, and so that one could answer certain questions, questions about their mental condition, whether they were perfectly clear, and so forth. Also, and this is very important, they were obliged to pull the parachute release on their own initiative without being told to, thus proving that they were completely in possession of their faculties, and they recognized the situation in which they found themselves.

Q. And all of that data or information then was recorded by you and preserved?

A. Yes, that was written down.

Q. Upon what was it written?

A. Usually during the experiment it was written on a piece of paper.

Sometimes it was written directly into the record, otherwise, it was entered in the record after the experiment. Also the numbers

and names, the writing tests, that the experimental subjects conducted while in the chamber, were preserved.

Q. In other words you preserved the name of the experimental subject, the day and hour, I suppose, upon which the test was made, and his reactions during the course of the test. Is that correct?

A. Yes.

Q. So that when you finished with your series of experiments you could look at this record, you could tell the name of each experimental subject, the date and time upon which he had been subjected to an experiment and his reactions during the course of each separate test, is that correct?

A. Yes, that is so.

Q. Who recorded that information?

A. During the experiment itself Rascher or myself wrote down these individual data, we made notes regarding the time when the person recovered consciousness and these were the data on which the report was subsequently worked out.

Q. And that course of procedure was followed throughout the entire course of the 200 to 300 tests?

A. Yes.

Q. And during the 200 to 300 tests you used 10 to 15 selected volunteer subjects?

A. Yes.

Q. And for the 200 to 300 tests you always used the same 10 or 15 subjects?

A. Yes.

Q. And each time an experimental subject would be presented to you or to Rascher in your presence for the conduct of the Ruff - Romberg experiments, I suppose you either asked him his name or ascertained his name from the record so that you could compare the data for the test

on the particular day with the previous tests, is that correct?

A. Yes.

Q. And when you had finished the 200 or 300 tests you then were in a position to ascertain over the course of the experiment how many tests each volunteer had undergone?

A. Yes, that is right.

Q. And it was from these separate lists as to each experimental subject, it was from those that you made your recommendations to higher authority for leniency for the experimental subjects?

A. Recommendations for leniency were not made by us, at least not by myself. This was a matter which Himmler had arrogated to himself from the very beginning. We of the DWL had no influence on this.

Q. How would Himmler know who to extend leniency to unless somebody gave him the names of the experimental subjects who had successfully completed the tests?

A. There was certainly the camp card index file on all those who participated in the experiments. These people had moved and moreover lived in separate barracks so that their names could at any time be ascertained. The intermediary who had contact with the camp commander and with Himmler and who had received the authority from Himmler was Rascher. We had no direct contact with Himmler, written or otherwise.

Q. Then that was a matter that was left, so far as you and Ruff were concerned, that was left to Dr. Rascher?

A. Yes, he was the one who from the very beginning had received the authority and permission from Himmler.

Q. Dr. Rosenberg, how many test runs on experimental subjects had you completed when to your knowledge Rascher began his first independent experiment under his separate order from Himmler?

A. About half of them. That would be roughly one hundred or perhaps a little more than a hundred experiments.

Q. What was the approximate date upon which you gained knowledge that Rascher was conducting independent experiments?

A. The beginning or the middle of April, at any rate after Easter of 1942.

Q. Then from about 11 March 1942 to the middle of April 1942 you had run a little more than one hundred of the two hundred or three hundred high altitude tests that you were going to run in your experiments?

A. Of course I can't tell you exactly, but that is what I estimate it to be approximately.

Q. How many test runs on volunteer experimental subjects had you completed when to your knowledge the first death occurred in Rascher's independent experiments under Himmler during the latter part of April 1942?

A. That was the end of April. It might have been as many as 200 roughly, experiments that had been concluded by that time, perhaps even more.

Q. How many test runs had you completed when to your knowledge the second death occurred in Rascher's independent experiments under the separate order of Himmler?

A. That was just at the very end of the experiments when we were almost through with them and didn't have so many experiments left. We were just doing the last ones at great altitudes.

Q. How many do you think you still had to do?

A. That is very hard to say, but you have to draw a distinction between those that would have been done if the experiments had continued in a normal way and those that we did to bring the series to adequate conclusion. It is specifically mentioned in the report, for example, that out of 21 intended experiments only one was carried out. Consequently you cannot evaluate the conclusions reached as well as if they had been carried out on a great number of persons.

Q. But you don't know how many more experiments or tests you probably had to run after the second death?

A. If we had continued at the same rate as we had intended there would have been another 30 or 40 more, but since the experimental series was limited thereafter less experiments were actually carried out before we reached the end.

Q. Now, I understand that the second death occurred on one day in May and the third death occurred the next day, is that correct?

A. Yes, and that was about the middle of May.

Q. How many test runs did you make on your own experiment after the third death occurred, not how many you had originally started to run, but how many you did actually run?

A. That could only have been very few, because after the third death the chamber was soon taken away, namely on the 19th, so that it might have been another 10.

Q. You said this morning that the reason you know of the death

of the second and third experimental subject in the Rascher test was because of the fact that upon the same day and prior to the deaths you had just finished conducting one of your own Romberg-Rascher experiments, is that correct?

A. Yes.

Q. Exactly what data were you recording at the time Rascher was conducting his experiment in which the second death occurred?

A. I don't quite understand the question, what data I had?

Q. This morning you said that you were not at the controls at the time the death occurred to the second experimental subject, but that you were somewhere around the low pressure chamber writing up your data, because you had just completed a test, is that correct?

A. Yes.

Q. Now what data were you writing up?

A. After the experiments we wrote down the length of time and the altitude and so to speak we drew the curve in which the descents occurred, and then we entered in the book exactly what altitude corresponded to any particular status of the experimental subject. The altitude was measured by a column of quick-silver, while for the practical evaluation we had to know the exact altitude at which the person gained or lost consciousness. Consequently the gauge on the column of quick silver had to be translated into terms of altitude and meters. That was the work that had to be done after the experiment.

Q. Where were you doing that work?

A. Usually I sat in the room in the low pressure chamber where the decompression chamber was located. This was a large truck, like a furniture van, and there was an ante-room, and in the end was a bench and a table with the EKG apparatus on it, and sitting on this bench I usually wrote up my notes, and perhaps I referred again to the quick silver barometer if I hadn't gotten some of the figures. That is why I did this work in the low pressure chamber van, but of course not in the chamber itself.

Q. And that is where you were at the time Rascher's second death and the third death occurred with his experimental subjects?

A. Yes.

Q. How far would you estimate that you were sitting from the controls?

A. About two or two and a half meters.

Q. Who was manipulating the controls at the time?

A. Rascher was carrying out his own experiments, and consequently manipulated the levers of the EKG, and the other instruments himself, when he was doing the experiment.

Q. Was there anyone there helping him at the time?

A. No, no one.

Q Where were you, when that experimental subject was first brought into the chamber; were you sitting in the anti-room working up your data?

A When the experimental subjects came up, yes, I was certainly in the low pressure van.

Q Yes, I am talking about the experimental subject who came there then?

A Yes.

Q They gave you the impression of men, who understood they were there as volunteers for high altitude experiments that were being carried on within proper limits?

A Yes.

Q How long was it after the completion of your experiment; let us consider now the day the second experimental subject met his death; how long a time was it between the conclusion of your experiments, the Ruff-Romberg experiments and the beginning of the Rascher experiments, wherein the experimental subject met his death?

A Rascher did not carry out the experiments right away, which led to the death. Before the fatal experiment, he carried out other experiments.

Q How many other experiments?

A I think in this case there were three.

Q Three experiments prior to the time of the experiments in which the man met his death?

A That is right.

Q How long had the second subject been in the chamber before he came to his death?

A I cannot tell you that for sure because I did not pay any attention.

Q How long were you in that anti-room after you completed your experiments writing up your report?

A I must have been there about one hour.

Q Then, during the course of the hour, two or three experiments were conducted, which had no fatal consequences and the fourth one began all within the period of an hour?

A Yes.

Q After each of these experiments were concluded, the ones that did not result in death; did Rascher make notes of what had happened to the test subjects?

A During the experiments Rascher wrote down his notes.

Q Wrote down the notes, watched the altitude gauge, observed the cardiogram, manipulated the pressure wheel and did everything necessary to carry out the experiments and to record the data?

A Yes.

Q Do you remember, who brought those experimental subjects that day to the chamber?

A I don't know for certain, but I believe it was an SS man from the camp who brought them.

Q Do you know where they came from?

A No, that I do not know.

Q Did they come from the same quarters that your ten or fifteen men came from?

A No, they came from somewhere in the camp.

Q Had you and Rascher had any discussion on that day -- by the way, what time was it that the death of the second experimental subject happened?

A In the late forenoon, I should say around noon.

Q So that you had completed your experiments then certainly by eleven o'clock of that morning?

A Yes, by that time we had concluded our own experiments.

Q Had you and Rascher had any discussion between the time of the conclusion of your experiments at eleven o'clock and the experiments when the second death occurred?

A No, we certainly did not talk with each other very much. I

probably said I was going to evaluate my material there, but we did not, as I said, talk with each other very much.

Q Now, after this death occurred, the second death, how many experiments did you conduct on the same day after that on your own, the Ruff-Romberg experiments?

A I believe that I carried out no further experiments on that day.

Q What about the third death?

A The situation was similar. I do not know if this was also in the morning, but I believe it was. We had carried out our own experiments and Rascher did his subsequently.

Q Now, let us consider for a moment the occasion when you witnessed the death of one of Rascher's experimental subjects; the first death you say you witnessed during the latter part of April, 1942; did you know this experimental subject?

A No, I did not know him personally; he was one of Rascher's own subjects.

Q Had he been used by Rascher for any other experiments prior to that time?

A That I really cannot tell you, I did not know him, but it is quite possible that Rascher had used him for other ones.

Q Had you ever seen him before?

A No, I cannot recall that I had.

Q Did you know his name?

A No, I did not know his name.

Q Did you know his nationality?

A No, I heard him speaking and he spoke German with Rascher.

Q Was he one of the ten or fifteen men, who had been selected for the Ruff-Romberg experiments?

A No, he certainly was not.

Q Was he one of the 60 or 70 inmates who had first volunteered, from whom you had selected some ten or fifteen subjects?

A That I cannot say because I don't know whether he was one of them.

Q What time of day did this death happen?

A That I cannot say for certain, but I believe that it was around noon or after luncheon.

Q Had you conducted any experiments that day?

A Yes, we had.

Q How many?

A I really cannot tell you. At that time we had conducted a relatively large number of experiments, but I really cannot give you precise figures.

Q Did you conduct any on that day after the death?

A No, I don't believe so.

Q Do you remember whether or not the first experimental subject who died, was unconscious at the time he was taken from the low pressure chamber?

A No, when they were brought out, they were certainly dead, not simply unconscious.

Q I am talking about the first man.

A You mean in our own experiments or do you mean in Rascher's experiments.

Q I am talking about the Rascher experiments, that first man who came out of there, whom you say died; was he dead when taken from the chamber?

A Yes, he certainly was. He died at the high altitude or during the descent. I believe that he died while he was at the high altitude and died of air embolism.

Q Was that test suddenly brought to an end, or was it concluded as it would have been if a man would not have died?

A I don't know how long Rascher would have conducted this experiment, had the man not died.

Q Well, how did you or Rascher know that the man was dead

while he was still in the low pressure chamber?

A I did not pay very close attention to this, but Rascher certainly saw this from the electro-cardiogram and probably also from the respiration of the subject and for that reason brought him down from the high altitude.

Q In other words, those machines would not operate, they would go dead in effect because there was nothing to register; is that correct?

A What machines do you mean?

Q The electro-cardiogram.

A I did not look at it very closely, but if the man was dead I assume there would be nothing to register.

Q That is what I am trying to get at; who took the first subject from the chamber?

A Rascher sent over to the morgue and two prisoners came with a stretcher and took him away.

Q Whom did he send to the morgue?

A So far as I know, he sent Neff over to the morgue.

Q Was there anyone else around there at the time besides Neff?

A No, I don't think so.

Q Who was running the engines at the time?

A The controls ran throughout the entire experiment, the pumps did not have to be manipulated, only the air pressure was regulated, the access of air to the chamber and that regulated the altitude.

Q I understand. Was the mechanic around there at the time, Sabotta, or your unknown man whose name you do not know?

A I really cannot tell you whether one of them was in the back of the van in the machine room. There was another truck next to the van, which contained the machines; now whether one of them was in there, then I don't know. The pumps operated, whether someone was there all the time or not.

Q Well, if he was there you did not see him?

A No, I could not have seen him because he was inside the van.

Q When you began your experiments that morning, who started the engines and who was in charge of them for the Ruff-Romberg experiments?

A In the morning, someone, usually Sabotta or Neff, came around and set the motors in motion.

Q Do you remember who did it that morning?

A No, I don't remember.

Q Do you remember who was there as a mechanic at the time of the second death?

A No, I don't.

Q At the time of the third death?

A I also cannot say, it was certainly one of the three, but just who it was I don't know.

Q In the case of the second death; who took the man out of the chamber.

A The situation was the same. Rascher sent someone over to the morgue. The prisoners came from there with a stretcher and took away the corpse.

Q The same is true in regard to the third death?

A Yes.

Q And in each case, it would be Neff, Sobotta, or your unknown mechanic, the man whose name you do not remember?

A Who was at the pump, you mean, or who was sent over to the morgue?

Q Yes, who was sent to the morgue in each case.

A That was probably not Sobotta or the other, because they were busy with the motors. It was probably Neff or one of the others who belonged to that group. Sobotta and the other man were usually busy, as I said, with the pumps and motors and didn't run errands as often.

Q In other words, when Rascher conducted his experiments, he always had Neff there or Sobotta there to run errands or to do things of that sort, should it become necessary, is that correct?

A Practically, the men were always at the station. The room they lived in was only a few meters from the van so that actually they were always available and it sufficed simply to yell in order to get one of them.

Q In other words, if anything should happen in the chamber, then a simple yell would bring Sabotta or Neff or the other man to the chamber, because they lived only a very few meters from where the experiments were being conducted.

A Yes, they lived close by.

Q All of your experimental subjects lived right there so that you could have them as you needed them?

A Yes, that's right.

Q And you think that on the occasions of these deaths, if Neff or Sabotta was not at the pressure chamber or at the engine in the van, that Rascher simply yelled for someone in barracks close by to come out?

A He simply had to leave the van and go to the barracks and yell and somebody would surely come.

Q And you think that is what he did on each of these three occasions?

A Yes, that is what I believe.

Q Then it was a reasonable thing to assume that those experimental subjects knew that Rascher was conducting experiments, as well as yourself, and that he was conducting independent experiments?

A They certainly knew that.

Q And they knew that sometimes you were there writing up your data at the same time that he had been conducting the experiments?

A Yes.

Q Was there any occasion when you acted as an experimental subject in the low pressure chamber while Rascher manipulated the controls from the outside?

A Yes, that happened several times.

Q When was that?

A When I went with the experimental subjects into the chamber for a slow sinking descent, for example from 12,000 or 13,000 kilometres, in order to watch the writing tests that they were doing. Then Rascher stayed outside and manipulated the chamber. I also carried out explosive decompression experiments during which I was inside the chamber and Rascher was outside. In the experiments described in the report, the experiments on myself, Rascher was inside but who was outside, I don't know, it can't have been Rascher in this case.

Q When you were inside was there anyone outside with Rascher, or was he doing the whole thing by himself?

A He was outside and took care of the machinery, yes.

Q No one was assisting him at the time?

A No, it wasn't necessary.

Q When was this?

A I was in several times.

Q Name the dates.

A I can't tell you really. I was in there in the beginning, when we

made the experiments at twelve or thirteen thousand metres altitude and I was in there at the conclusion and several times in between, but I can't fix the precise days.

Q Were you in there as an experimental subject any time after you had seen the first, the second, or the third experimental subject in the Rascher experiment die?

A Yes -- I carried out an experiment at 19 kilometres, which certainly took place after the first fatality -- not after the second or third fatality, however.

Q And no one was at the controls but Dr. Rascher?

A That's right.

Q And you had full confidence in him at the time?

A I was convinced that in the experiments that we were carrying on continuously, nothing would happen, and for that reason I went in as an experimental subject.

Q What would have prevented Rascher from putting you through the same course that he put the experimental subject through?

A Today I wouldn't go in, now that I know what I know, but at that time I had no reason to assume that he was going to kill me in an experiment.

Q After he had already conducted one experiment in which, from your observation the experimental person would die, and you remonstrated with him after that, you were still willing to go back into the chamber, and did go back?

A In this experiment, I wasn't in a position to say death must occur. I would, however, say it was dangerous and that I myself would have interrupted the experiment. On the other hand, the experiment scheduled was a free falling experiment. In the experiment in which I participated, they exactly laid down how high I was to go and how far I was to fall. I was examined on account of the experiences gained by the experiments that nothing would happen and I had no reason to believe that Rascher would suddenly change the program and change the descent in any way, so that something might happen.

Q Before either of these three deaths occurred, did Rascher show you an outline of the test upon which he was about to embark? In other words, as to the first experiment did he have a statement there of the kind of experiment he was going to conduct?

A I don't know whether he had one. At any rate, he didn't show it to me. He always said that these experiments did not concern me; that they were orders that he had received; and that I shouldn't worry about them. He did not let me in on that experiment, but kept me at a distance.

Q And that was also true in regard to the nature of the experiments at the second death and at the third death?

A Yes.

Q When was the first time that you conducted an experiment after you witnessed the death of the first experimental subject in Rascher's experiments in April?

A When, after that death, did I carry out an experiment in the frame work of my own program, you mean?

Q Of course, that's what I'm talking about.

A I certainly carried out experiments on the very next day and then I went to Berlin. I didn't go to Berlin on the same day, but carried on the experiments further until my departure.

Q What was your purpose in going to Berlin?

A The reason was the death that had occurred. I told Rascher, however, that I wanted to visit my wife who was about to have a child.

Q Whom did you see in Berlin?

A First I went home; saw my family, of course. Then I went out to the DVL in Adlershof and saw Ruff.

Q What did you tell him?

A I told him that in these experiments that Rascher was carrying out, he had had a death yesterday or the day before; that I had seen from the electrocardiogram that it seemed to me as if the experiment should be interrupted and that I told him this. He, however, did not interrupt the

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experiment on my suggestion. I told him that these experiments were nothing that I wanted to have anything to do with. Ruff was of the same opinion and we discussed how we could bring these experiments to an end.

Q. Did Ruff advise you to return to Dachau?

A. We talked about that at great length, about how we could best do what we wanted; but we both saw clearly that we could not simply tell Rascher or Himmeler, for instance, that a fatality had occurred and consequently the experiments would have to stop. What we would have to do would be to bring our experiments to a conclusion and then take the chamber out and away from Dachau.

Q. When Rascher's experimental subject died in the low pressure chamber in April--that's the first subject--I believe you said he was taken to the morgue for the purpose of an autopsy. Where was the morgue in relation to the location of the low pressure chamber?

A. One had to go through another barracks and then through a long corridor leading through a camp street or a court. Exactly what distance that was I don't know precisely now. I estimate that it was approximately a hundred meters.

Q. On the day on the death, which you say occurred about midday, you had completed your experiments perhaps an hour prior to that time?

A. Yes, we carried out experiments in the morning. When we were through, I don't recall exactly.

Q. Then what did you do with your experimental subjects? They went back in the barracks?

A. Every one of our experimental subjects went back to the billets after the experiment was over.

Q. That billet was just several meters from the chamber?

A. Yes, that wasn't far at all.

Q. Heff, Sobotta, and your other man whose name you don't know lived there?

A. Yes, they lived there too.

Q. How long after the death of the first subject was it before the autopsy took place?

A. I can hardly tell you that exactly; but I should think it

was about half an hour later.

Q. Who was present?

A. Rascher, I, and the inmates from the pathological station, nobody else.

Q. Is that what you would call the dissection room, the inmates of dissection room?

A. Yes; yes, that's right.

Q. In other words, there were present at the autopsy you, Rascher, two men from the dissection room. Was Neff there?

A. No, I don't think so.

Q. Was Sobotta there?

A. No, I am sure Sobotta wasn't there. He had nothing to do with it.

Q. What was actually done at the autopsy?

A. It was a normal autopsy. The skull, the breast, and the abdominal cavity were opened.

Q. Is that all?

A. Yes, that was a complete autopsy. That is what is ordinarily done in an autopsy.

Q. Just open the breast, skull, and the abdominal cavity and your autopsy is over?

A. First the breast is opened; then the abdominal cavity is opened; and at the end the skull. Then the individual organs are opened, the heart, lungs, as is necessary in the case of a normal autopsy.

Q. Now, what is the purpose of all this? Why in this particular case did you want an autopsy? You knew the man was dead, didn't you?

A. I didn't want to carry out this autopsy, but Rascher.

Q. I understand; but I'm talking about the man Rascher. Why should there have been an autopsy?

A. Well, I can't tell you that. I think probably in order to find

out the cause of death.

Q. I thought you said that it was because of the fact that the man had been subjected to high altitude for so long a period of time that his heart failed; his heart just stopped. Wasn't that the cause of death?

A. Well, whether the heart stopped because of its work, because of not being able to carry out its work, or whether it was because of a central paralysis starting from the brain, one cannot tell. It is the same as in the case of anesthesia, in the case of a chloroform anesthesia. Then the heart can stop because of the effect of the anesthetic, but the heart can also stop whenever the heart is overburdened. It is hard to say in detail what the cause of the death was.

Q. Well, what did Rascher find out was the cause of death in this particular case? He was the one who performed the autopsy, wasn't he, Doctor?

A. As far as I could see he couldn't find the exact cause of the death. At any rate, I couldn't clarify the cause myself.

Q. Did he make any statements in your presence at the time as to what he considered the cause of death?

A. Yes. In the case of this autopsy air bubbles were found; and he thought that these air bubbles would have something to do with it, although I personally am not at all convinced that one can say that with certainty.

Q. Where were the air bubbles found?

A. They were found in the various blood vessels.

Q. All over the body?

A. Yes; at any rate as far as the body was autopsied. Whether air bubbles were existent in the legs I cannot say.

Q. Well, did you agree in your own mind with the cause of death as concluded by Dr. Rascher? Did you think it was caused from air

bubbles?

A. I can hardly imagine that the visible ones were the cause because such visible air bubbles often occur as a result of a surgical interference and do not necessarily lead to death. In my opinion it was a sudden central failure caused by perhaps a disturbance of the blood flow. However, I cannot say that exactly.

Q. Do you know of deaths caused by a sudden central failure due to stoppage of the blood flow? Is that a known cause of death in medical circles?

A. I know it now because of the experience of the American air forces when they tried to examine the fitness of their flyers. In 6 cases during a prolonged stay - I think that in twelve kilometer altitude - a sudden death occurred; and since there is no physician present during these American tests but only some sergeant or corporal, I only know of this from what they said. But judging from the entire description, they cannot have been any other cases of death, but caused by sudden embolisms.

Q. Did you know that fact at the time of the death of the Rascher subject? Did you have that medical knowledge?

A. No, I only know that now.

Q. Then how could you disagree with Rascher's diagnosis about the matter if you didn't have that knowledge that you now say you have?

A. At that time we only knew of the corresponding cases from the submarine crews who had suffered from similar symptoms in the case of rescues from U-boats that had been sunk. In the same way a number of death cases are known from commercial medicine in the case of caisson workers. People like that, whenever they were found unconscious in the street, were always carrying a certificate describing them as caisson workers who were to be taken to the next hospital as quickly as possible. Thus the principle of this

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illness is generally known also in commercial medicine.

Q. Well, it is very much the same thing, then, as the card that a diabetic carried, who may have some sort of a stroke as a result of either lack of insulin or insulin shock? Isn't that what you are trying to say, generally speaking?

A. Well, the purely medical progress is different; but diabetics generally carry a certificate with them stating that they are suffering from diabetes and that this and that measure would have to be taken in case of their falling unconscious.

Q. Was a written record of the findings of the autopsy of that first death made by Rascher?

A. Yes, Rascher noted down all the data on the individual death certificate. He had the intention of evaluating them in some way.

Q. That is true in regard to all three deaths, I suppose, for the second and third deaths? You witnessed the autopsies and very much the same procedure was followed as at the first autopsy?

A. No, I wasn't present during the other autopsies because Rascher didn't ask me to attend. At that time my relationship to Rascher was already strained because of the interruption of the experiments.

Q. Did you see or read or hear the report or written record of the findings on the autopsy that was made by him in the case of the first death.

A. No, I did not see it.

Q. But you saw him making certain notes. Did he discuss with you as one professional man would likely do with another what he thought he was finding, as he made the examination?

A. Yes, he particularly pointed out the air bubbles he had found and expressed that thought when writing down the findings.

Q. Now, then, sofar as that autopsy was concerned, what possible use could be made of those findings sofar as they would constitute information to medical people who were interested in flying, that is, in aviation medicine, or, to people who were interested in that type of medicine where men are engaged in working under water, or in caissons, under tremendous pressure; what possible use could be made of those findings?

A. Well, I think that one could not use his notes very well because of a singular case of death, since its cause is very hard to determine. One needs large experiences, such as commercial hygienists would have in their corresponding field, and if such a hygienist who was very well acquainted with the subject had been able to look at those findings, I am sure he would be able to draw some conclusions from it.

Q. What conclusions do you think he could have drawn?

A. If he would compare that finding with other findings of caisson death cases, and which are known from that caisson literature, he could have brought the whole thing on the same denominator. However, in one individual case it is

very hard to draw any conclusion.

Q. How many cases would it take Dr. Rascher to really come to any real conclusion about that matter?

A. That is very hard for me to say, because I am no expert in this field. An expert in the caisson field does not only know of the accidents which he himself had witnessed, but he is well acquainted with the literature on the subject, and with findings of other physicians, and from all that he draws his own conclusion.

Q. What about an expert in the high altitude fields. If, for example, you had a record for a case history of five-hundred deaths resulting under the same conditions as that Rascher did, and when you performed your autopsy air bubbles were found throughout the blood vessels. Would you from that be able to gain a certain knowledge that would be valuable in flying?

A. In the entire literature about aviation medicine, I know of no case where air bubbles had been described. That is probably because during an air accident a considerable time passes until an autopsy is made possible. In addition the bodies or corpses in the case of an air accident are usually mutilated, so that aviation medicine has no practical finding. At any rate, I know of none in Germany.

Q. Then the only way you would be able to determine findings would be if there had been or to be a series of experiments in which you had used experimental subjects, in which the men were subjected to same experiments that Rascher subjected them to, conducted over a great period of time, with a great many men, and, if considerable aid in aviation medicine, wout it not?

A. That is not quite correct. Certainly in order to clarify the findings, one ought to have the possibility to

perform autopsies on a number of corpses under suitable conditions. That question itself, however, bears no interest for aviation medicine. Cases of death had not been observed on hand with air bubbles, and there was no reason to do that. There was no reason to assume that this condition had played any role in cases of death. This was a field which was alien to aviation medicine research. However, alien, this can be seen from the fact that although I saw one such case by accident, I never again dealt with the question. I might, however, for instance, have done the same thing, using animals as experimental subjects, if I had had any practical interest in that field, or had expected any benefit. This is a procedure that does not matter at all. For that reason there was no interest in carrying out a larger number of experiments.

Q. I believe you said in your testimony Friday that you know of at least two or three of the men connected with the experiments who were recommended for leniency, or commutation for their criminal sentences because of their participation in the experiments. Who were those two or three men?

A. No, I only know what can be seen from the documents here. Sobotta had been pardoned by those people.

Q. In addition to that, the two inmates in the dissection room had been offered, or recommended for some sort of leniency. Is that what is shown here by the documents; those are the two or three men you referred to?

A. I found that out here on the basis of documents.

Q. But except what you found out on the basis of those documents, would you know that anybody was recommended for leniency?

... No, I can only repeat what I have already said, that this had been promised to these persons at the outset. Himmler made more promises to them when he visited the camp, and repeated the very same thing, when I reported to him, namely, that these people were to be released. Rascher also concerned himself with working on these releases, what actual work had been done, and to what extent Himmler did not keep his promise, I don't know.

Q. But so far as you are concerned, you made no recommendations?

A. No, I could not do that.

Q. When did you talk with Himmler?

A. Beginning or middle of July 1942.

Q. What about?

A. I already mentioned that Rascher suddenly telephoned me in Berlin, and told me that both of us were to report to Himmler; that we were to leave that very same night. Sleeper tickets were already prepared. Then the next evening we reported to him about these experiments on the basis of a typewritten report, which then was already finished.

Q. What day was that; all you know is in July sometime?

A. Well, as I saw from the documents, it may be, well, before the 14th or 13th of July, because Rascher refers to that day in speaking about the report to Himmler. It is possible that it was that day, otherwise, I could not have remembered the date exactly.

Q. But at the time of the conference, you and Rascher were there together with Himmler, making an early report on the results of your experiments?

A. Yes.

Q. At that time did Rascher also make a report on his

experiments?

A. No, at any rate, those experiments were not at all touched on in my presence. He spoke to Himmler once more the next morning, and it is possible that on occasion of this conference he said something to him about that. At any rate we only discussed experiments of persons rescued from high altitude, and Himmler said that Goering was to be informed about the results of this experiment as quickly as possible.

Q. In your presence Himmler made no reference to Rascher's experiments?

A. No, nothing at all was said about it.

Q. And Rascher made no mention to Himmler of Rascher's experiments?

A. No.

Q. Afterwards did you have a conference with Goering, or reported to Goering on the subject of your experiment s?

A. No. Himmler said during that conference that the results were of extreme importance, and that we were to report them to Goering, if possible. However, that did not materialize, and I assume that the report which was to take place at Milch's place, which also did not take place, was to have been the substitute for the planned report to Goering. As can be seen from the document, Rascher obviously had been very interested, and always he turned to either Himmler or Brandt whether the report would be made, obviously because of his personal ambition that it was of great value to report to Goering or Milch.

Q You meant Karl Brandt or Rudolf Brandt?

A I mean Rudolf Brandt. The letters were always addressed to Rudolf Brandt.

Q After the barometer and low pressure chamber was broken by Neff, I believe you said that you had it replaced. When was it broken? I have forgotten.

A According to my memory, that was at the end of April. I was in Berlin and then returned. Then the barometer was suddenly broken. I took that broken barometer back to Berlin to have it repaired.

Q And when was the low pressure chamber again in working order?

A I can not tell you that exactly, but I should say that it was on the 10th or 12th of May, or somewhere around there.

Q How many tests were made in the Ruff-Romberg experiments after that?

A After the return?

Q And after the low pressure chamber had again been put in working order.

A Yes. Perhaps about 50. Well, I don't think that there were so many as that. I can't give you the exact figure. I think there were a little less than 50.

Q How many tests did Rascher conduct after that, to your knowledge?

A Well, I can only remember the days when I was present. Then there were about three on one day, and a similar number on the next day. I don't know exactly what he did, because he may have worked nights or evenings.

Q How many deaths occurred in Rascher's experimental subjects after the repair of the low pressure chamber?

A The two cases of death which I have already mentioned.

Q Now, then, as I understand it, you finally made a report on the Ruff-Romberg-Rascher experiments?

A Yes.

Q That appears here in the Prosecution document book?

A Yes, that is that report.

Q And that was compiled and your conclusions were drawn and your recommendations were made on the basis of certain research data made at Dachau; is that correct?

A The report was made on the basis of my record about the experiments. In that report, certain recommendations are made for the future development.

Q What became of those records which you made the basis for this report which is here in evidence?

A My record, you mean?

Q Whatever records you used.

A I don't know what happened to it finally. It was in Berlin in the safe. Whether these records were destroyed, together with all the other secret files when the Russians came to Adlershof or whether the Russians have removed these files, I don't know, because I was not with the DVL at the end of the war. I think that Ruff would probably know about that. That is to say, if he remembers what the records were that were destroyed when the Russians marched into Berlin.

Q Now, as I understand it, you are unable to say what the names of your ten to fifteen experimental subjects were, what their nationalities were, or for what purpose they had been incarcerated at Dachau? You say you don't recollect that?

A Yes, I don't remember all the names of the individual people, as I already said. That all of them were German I know exactly because I spoke to them. They were the brood badge of the professional criminals, and they also told me why they were there. Why every individual was there and what his name was, of course, is difficult to say.

Q Do you remember any of the names?

A Apart from the four whom I mentioned yesterday, I do not remember any.

Q What four?

A Sobotta, Klos, Rockinger, and Zoslak.

Q Haff, Sobotta —

A I didn't mention Neff.

Q But there was Neff; there was Sobotta, and who was the next one?

A Rockinger.

Q How do you spell that?

A R-O-C-K-I-N-G-E-R.

Q And who was the fourth one?

A Klos, K-L-O-S.

Q Do you remember one more?

A Zoslak, Z-O-S-L-A-K, or C-K; I'm not sure which.

Q Where was Rockinger from?

A I can't tell you that. I don't know where he was from.

Q Where was Klos from?

A I really don't know where they all came from. I think that one of them came from Western Germany, but I really can't tell you that with any amount of exactitude.

Q Where did Zoslak come from?

A I can't tell you that either. I don't know where he came from. I believe he came from Silisia, but I really don't know that exactly.

Q These were all German nationals who were criminal prisoners who had been condemned to death and who had volunteered for the experiments?

A No, they were not sentenced to death, but they were sentenced to preventive custody, because of their repeated crimes as professional criminals.

Q Do you know the names of the two inmates of the dissection room who were promised leniency or recommended for leniency? Was that Klos and Zoslak?

A No, I really don't know their names.

THE PRESIDENT: Any questions of the witness on the part of Defense Counsel?

MR. HARDY: Your Honor, I had assumed that Defense Counsel had finished redirect examination.

THE PRESIDENT: Defense Counsel has, but they may examine the witness on the testimony that has been put in since that time.

This examination, Counsel, will be limited to the questions propounded to the witness after the Defense had rested.

DR. SAUTER: Certainly, Mr. President. Dr. Sauter, Counsel for the defendants Blome and Ruff.

BY DR. SAUTER:

Q Witness, during your present examination, you were telling us about a prisoner at Dachau who had been arrested and put into Dachau because he had denounced some undertaking of the SS. You know whom I mean?

A Yes, that was Neff.

Q Who was it?

A Neff.

Q He was a political prisoner, was he not?

A Yes.

Q What badge did this Neff wear?

A He wore a red badge.

Q A red badge. Was Neff also used for experiments?

A Neff, as I already said, participated in experiments himself because he volunteered for them, and on his own initiative he participated in these experiments, the same way as I did.

Q Witness, you were asked about the conditions in Dachau, and I would be interested in the following: When you entered the camp of Dachau were you able to move about freely?

A No, I could not.

Q What was the situation?

A I had the order to go straight to the experimental station and otherwise was not allowed to move around freely in the camp, for instance, going to other blocks. I was limited to going straight to my experimental station.

Q I assume that when you came to Dachau, you had to report at the gate; is that right?

A Yes, I had a pass which I had to show there.

Q Could you then walk alone to these barracks, or were you accompanied by a guard?

A Afterwards I was allowed to go there myself, but at the very beginning a guard of the SS accompanied me. It said on the pass that I had to go from Gate I or something like that up to Block 5, and it also said that I had to use the shortest way to that block. This is customary in the case of official buildings in Germany. When one goes to a certain office, one had always to choose the shortest way.

Q Witness, is it correct that you were expressly ordered not to speak to any one from the gate to the barracks except to experimental subjects?

A I have already said that I was obliged not to speak to any of the inmates and to stay only at those places where my presence was officially necessary, and I had to sign a paper to that effect. There were limitations upon my freedom, and many witnesses have confirmed that.

Q Now, if I understand you correctly, you could learn about the conditions as they prevailed in the concentration camp only by listening to what the experimental subjects or the Capos or perhaps Rascher had told you. Other inmates, on the other hand, could not tell you anything; is that right?

A Yes. Do you mean Neff when you say Capo?

Q Yes.

A Well, Neff certainly was not a Capo. I don't know exactly what a Capo is, but I think he holds a high rank among inmates.

Q. At any rate other inmates of the camp could not tell you anything about the conditions and the method that prevailed in the camp?

A. No. Naturally I only spoke to Neff and my own experimental subjects.

Q. You were asked what you spoke to these experimental subjects about, and you answered that by way of telephone you always managed to speak to them. You were outside the chamber, and the experimental subjects were inside the chamber, and you were able to speak by way of telephone?

A. Yes.

Q. Well, I assume now that in particular after the conclusion of any single experiment you had repeated opportunity to converse closely with the experimental subject. In particular I am wondering whether you didn't discuss with the experimental subject after the conclusion of the experiment what the subject experienced during the experiments, whether he suffered any pain, whether he suffered any dizziness, or whether the ears had heard, and then on the occasion of these conversations, you were not at all controlled by the SS men, and therefore were in a position to speak quite freely with these experimental subjects, including private conditions.

A. Naturally such conversations were not controlled, unless, of course, Rascher was present, but he was not always present. Then, of course, I could speak to them, but I must say that even on the occasion of these conversations I never heard any details about the concentration camps, particularly details as I know them now. I cannot imagine that anything like that had happened at that time in Dachau. I am sure that they would have told me that once in a while. It may well be, of course, that

in principle they didn't discuss such matters. I would rather believe though that they didn't tell me anything of that nature because they didn't have any such experiences themselves.

Q. Doctor, whenever you conversed with the experimental subjects after any experiment, I assume you attached particular value to whether any pain had arisen during the experiments with the experimental subjects, is that right?

A. Well not quite, because we knew that during high-altitude sickness they couldn't suffer any complaint. It is well known that in the course of high-altitude sickness the experiment is completely foreign to the person undergoing it as if he was under an anesthetic, the same way that a person isn't asked after an anesthetic whether he felt something because it is known he couldn't feel anything.

Q. But, Doctor, one does know, and we laymen also know it, that preceding unconsciousness there is a certain stage where one does feel something because one still does retain a certain amount of consciousness, and also as a laymen one knows there is a certain stage after awakening from unconsciousness where one does feel something. I am interested to know whether before the beginning of unconsciousness and after this state disappeared the experimental subjects complained about a pain, for instance, about pains which arose up to the point of unconsciousness or about certain after-effects after unconsciousness. That is what I am interested to know, especially did they have any pains, did they complain of any pains before or after unconsciousness?

A. No, they did not, and I am not at all surprised, because I personally had suffered from altitude sickness

so often, that I know this condition from my own experiences, and I am sure that Dr. Ruff would have told you the very same thing. The beginning of high altitude sickness is similar to intoxication. The transitory period to complete unconsciousness, is similar to alcohol intoxication. However, that lasts very shortly, only a few seconds. Then awakening is very similar. There is a small, a very short phase where the subject does not know where he is, and there are no complaints, as I know from many experiences myself.

Q. Witness, a little while ago a complete copy of the document, 1602-PS, was submitted to you. I think you have it before you.

A. I am afraid I didn't receive it today. I had it on Friday.

Q. But you do know that document, don't you?

A. I believe I do. I think I remember it approximately.

Q. Now, I would be interested in the following matter in connection with that document. Did you at that time when making the acquaintance of Rascher know, or did you assume that Rascher had already carried out the experiments with a low-pressure chamber at an earlier date?

A. Naturally he said that he had worked in the field of aviation medicine.

Q. With the low-pressure chamber?

A. Yes.

Q. And in this document which I just mentioned, 1602, the letter by Rascher to Himmler, the word "low-pressure chamber" is not at all mentioned. Rascher is speaking of experiments, and he asks the Reichsfuehrer Himmler for a number of professional criminals for these experiments. However, he does not mention a low-pressure chamber.

Witness, I would like to draw your attention to the fact that in this document Rascher is writing, and I quote, "The experiments are very dangerous." Then in another passage he writes, and I quote again, "Experiments in which experimental subjects may, of course die." And then there is a third passage where it says, and I quote, "Insane people can also be used as experimental material." These three sentences are not correct if we assume the testimony of the defendant Dr. Ruff here to be correct, and these sentences can neither be correct if your own testimony should be taken as being correct. But if you have testified here that the experiments do not incur any danger whenever they are orderly performed, and I am now speaking of the high-altitude experiments of Ruff and Romberg. Ruff has told us that insane people could not be used because of well known reasons. And in spite of that Rascher is stating these three sentences which I just read. Can you explain that in any way?

MR. HARDY: May it please your Honors, I strenuously object to any further questioning along these lines by Dr. Sauter. He has asked this witness on the witness stand whether or not these experiments were painful, just what the subjects endured during the course of these experiments, and the witness has answered him. What more can he do?

THE PRESIDENT: I think the question is proper. The witness may answer.

Q. (By Dr. Sauter) Now, witness, I was putting three prints to you taken from Rascher's letter, whom you at that time designate as an expert in this field. Here he is laying down three sentences which do not correspond

with your and Dr. Ruff's testimony. How can you explain that?

A. This letter bears an early date, May, 1941, and obviously it is the outcome of a spontaneous idea on the part of Rascher. He was an impulsive man, and immediately sent a letter to Himmler with that contents. The fact that he speaks about the dangerous aspect would not be conspicuous in its self. I think that whenever one makes a demand to the competent supreme authority to give their permission for such experiments to be carried out on prisoners, it is more ample to exaggerate rather than minimize in case something should happen to the experimental subject. In this case one has nothing to reproach to oneself, in case something should happen. I don't think that this sentence is conspicuous, and one could even assume it to be rather sensible of him not to say that he is sure nothing will happen but to say that people may die. To what extent he was already viewing some concrete plan for his own experiments I cannot say. However, I don't think that he already had any plans at this early date. I can hardly imagine it.

Q How do you explain the third sentence about the insane? According to your opinion such a sentence could not be understood at all as being uttered by an expert.

A Well, both of us already testified that insane people could in no case be used for our experiments. Whether he already had some special experiments in mind and was planning them, which were perhaps to be carried out with insane people, I cannot say of course.

Q Dr. Rammner, you are here starting a trend of thought which I didn't want to mention before, in order not to be accused of putting a leading question to you, but you gave expression to the thought which I personally had in mind.

It is correct, and I am sure that you confirm it because we already heard it, that in addition to high-altitude experiments, Dr. Rascher was carrying out other experiments. That is a well-known fact here, is it not? Now, could it possibly be assumed that these three sentences which I just read to you, (a) about the dangerousness of the experiments; (b) about the possibility of the death of any experimental subject; (c) about the possibility to use insane people, that these sentences could be interpreted as applicable to the other experiments which Dr. Rascher was carrying out in addition to your high-altitude experiments, which were for the purpose of rescue from high altitude. Could not these sentences be applied there?

A. Certainly for these experiments he could have used insane persons because there was no great cooperation necessary on the part of the experimental subject.

Q Then you probably also will confirm that these other experiments of Rascher, the experiments he carried out on his own initiative were much more dangerous because people actually died. Now if you once more recall that letter of Dr. Romberg, is it your opinion that Rascher in the case of this letter, dated 15 May 1941, which was long before your experiments, perhaps did not at all think about the high altitude experiments of Ruff and Romberg but was thinking of his own experiments, or are you not of that opinion?

A Well I am sure he did not think of our high altitude experiments because this was a very special subject which resulted from our special field of activity at the DVL. Naturally this was not something which was not accessible to every one in aviation medicine. He certainly did not think of that. To what extent he at that time was already planning the experiments which he carried out a year later is, of course, very difficult to say.

Q Now something else, Dr. Romberg.

THE PRESIDENT: The Tribunal will now be in recess until nine-thirty tomorrow morning.

(The Tribunal recessed at 1535 hours.)

Official Transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 6 May 1947, 10930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal I.
Military Tribunal I is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defendants are all present in court?

THE MARSHAL: May it please Your Honor, all defendants are present in the court.

THE PRESIDENT: The Secretary General will note for the record the presence of all the defendants in court.

The Tribunal has another question to propound to the witness.

HANS ROMBERG - Resumed.

EXAMINATION.

BY JUDGE SEBRING:

Q. Dr. Romberg, we were speaking yesterday about the experiments or tests that were conducted by Dr. Rascher and you say that those tests or experiments were under a separate order from Himmler and had nothing to do with the Ruff-Romberg experiments. How many tests did you see Rascher make, either while you were present or while you were in the proximity of the low pressure chamber apparatus?

A. Starting from the middle of April approximately -- that is, from the time that I knew about these experiments and he told me about them -- he experimented



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often, referring to the clarification of questions, but these experiments did not lead to any fatal cases.

Q. I understand that, but how many such tests would you think that he ran from the middle of April on, at least while you were there.

A I saw directly myself or, at least, I was in his proximity when he experimented daily or almost daily. It is very difficult for me to estimate the number of experiments because I didn't pay any particular attention to them at the time. I am sure, however, that between fifty and one hundred experiments were carried out.

Q That is, from the middle of April until you left there?

A Yes.

Q Thank you.

THE PRESIDENT: Has counsel for defendant Ruff any further questions to propound to the witness?

A No.

THE PRESIDENT: Does any other defense counsel have any questions to propound to the witness. Counsel for the defendant may propound questions to the witness if the answers given to the questions propounded to the defendant by the Court affect his client. Are there any other questions?

DR. VORWERK (Defense counsel for defendant Romberg): Dr. Romberg you replied yesterday to a question of Judge Sebring to the effect that, before the beginning of the Dachau experiments, similar experiments on the same subject were already carried out by you in Adlershof during which you used seven experimental subjects, who were members of your Institute at Adlershof. You further said that these experiments extended over a period of approximately four months and that, during those four months, approximately two hundred such experiments were carried out, during which you reached an altitude of seventeen kilometers.

A Yes, that's right. These were the explosive decompression experiments.

Q Did the experimental subjects that you used there exercise any other activity but being experimental subjects.

A Naturally, and that was the difficulty with our work. That was one of the reasons why we accepted the offer at Dachau. All these

pers as had their normal jobs to do. Ruff was the head of the Institute. I had my own activity to fulfill and that was the case with every one else too. The experiments were continuing during our time of duty. At the same time, another difficulty arose because of the fact that we couldn't concentrate on one series of experiments for any long period of time but whenever good flying weather came about we had to carry out a number of experiments in airplanes for several days running. When there was bad weather, we concentrated our work on the low pressure chamber and the centrifugal chamber.

Q. Were other experiments but these two hundred altitude experiments carried out with these experimental subject?

A. Yes, certainly.

Q. Mr. President, I have no further questions.

THE PRESIDENT: Counsel for prosecution may cross-examine.

RECROSS-EXAMINATION.

BY DR. HARDY:

Q. May it please Your Honors. Dr. Romberg will you kindly explain to the Tribunal, in German medical terms, just what a pathologist is and what his duties are?

A. A pathologist is a physician who has specialized in the changes which are caused by illnesses in the human body and which are determined after death has occurred. To examine these matters carefully is the task of the pathologist.

Q. Then, in order to examine these matters, is it necessary for him to perform autopsies?

A. Yes, in order to examine these matters he has to carry out an autopsy.

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Q. I have no further questions, Your Honor.

DR. VOR ERK: I have no further questions, Mr. President, and this concludes the evidence on behalf of the defendant Dr. Romberg. With the approval of the High Tribunal, I should like to reserve the right to submit a number of affidavits which may arrive in the future.

THE PRESIDENT: Counsel may submit affidavits when they are in proper form to be submitted to the Tribunal before the close of the case.

Defendant Rosenberg will resume his place in the dock.

The Tribunal will now proceed with the case against the defendant Woltz.

DR. WILLE (Defense Counsel for defendant Woltz): Mr. President, with the approval of the High Tribunal, I shall start to submit evidence on behalf of the defendant Woltz. I may perhaps point out the subject of my evidence. The indictment does not charge Professor Woltz to have participated personally and directly in the Dachau experiments conducted by Dr. Rascher. The Prosecution does charge, however, that he participated in the work and is co-responsible for the work of Rascher, Rosenberg, and Ruff by giving the incentive for these experiments and, for that reason, would also have to bear responsibility for the experiments. The prosecution also believes to have some points regarding freezing and conspiracy with which to charge him, without giving further particulars. I should like to ask you that I be permitted to submit my evidence in the following sequence: At first, I should like to ask the Tribunal to permit me to call the defendant Woltz personally into the witness stand. In addition, the prosecution has approved that the witness Dr. Wendt from Karlsruhe be permitted to testify here. Wendt is the former assistant of Professor Woltz. Furthermore, in order to submit proof, I have submitted two document books to the Tribunal, including twenty-two documents. These documents contain, among others, the affidavits by eleven witnesses, mostly co-workers or professional colleagues of Professor Woltz. Before I start the direct examination of the defendant, I shall read an affidavit of Dr. Werner Knothe at Karlsruhe. Reading this affidavit will make it unnecessary for me to ask the defendant about various phases of his professional life and will, therefore, contribute towards the shortening of the proceedings. I am now handing to the

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"Tribunal the document Weltz #14, which I shall designate as Exhibit #1. I shall only read this document where Professor Knothe mentions the professional life of Professor Weltz. Professor Knothe was the President of the German X-Ray Association and, for that reason, is a person well in a position to give a characterization of the defendant Weltz. I quote:

" Georg August Weltz ranks among the first X-Ray scientists of Germany; his works, particularly on X-Ray physiology, have been recognized at home and abroad to the same extent, and have communicated principles which will never lose their value. Weltz holds a leading position in the field of gastro-intestinal hystography, and the development of hystography can never be mentioned without consideration of his fundamental works. It is a remarkable fact that these works were carried out by him in his private X-Ray institute, which he had fitted up as a proper scientific institute. In recognition of his scientific achievements, he was elected to the board of directors, and the Advisory Council of the German X-Ray Association. In 1936 and 1938 he was sent at Vienna, Prague and Turin, to the meetings of the Austrian, Czechoslovakian, and Italian X-Ray Associations, as official representative of the Association. In 1937, he was at the international X-Ray Congress in Chicago, as official representative of the German X-Ray Association. In 1938, Weltz was appointed Head of the German X-Ray congress at Munich. The term of appreciation Weltz experienced as a scientist and as a moral personality from experts, can best be illustrated by the fact that he was offered the post of Head of the Association in 1938, by Professor Friik, then President of the X-Ray German Association and repeatedly by me in the following years, as the last President of the Association, with full consent of the Board of Directors. He, however, always refused it. Appreciation of Weltz's personality extended far beyond the limits of the German X-Ray Association, to other scientific associations, of which I shall only mention the Association for Surgery, for Circulation Research, and

for Internal Medicine. A fact by which Weltz especially distinguished himself was his constant readiness to help in scientific as well as in personal matters. After a visit to his institute one was always enriched in knowledge; he did not refrain from giving the results of his current scientific works, even if they had not yet been published, and he was pleased if he was able to exercise an inspiring and stimulating effect on others.

"As a pilot during the first world war and as a balloon pilot he had already been engaged in aviation medical problems from a very early date. On account of this aptitude of his he was appointed lecturer of aviation medicine at Munich. He established a department for aviation medicine at the Physiological Institute at Munich, for which he himself furnished the funds to a great extent and which he fitted up with his own apparatus. The work carried out in this institute was also on a high level."

Mr. President, I have finished the affidavit of Knothe referring to some characterizations of Professor Weltz. I should now like to ask you to permit me to call him to the witness stand.

THE PRESIDENT: The defendant George Weltz may take the witness stand.

MR. HARDY: May it please Your Honor, may I inquire of counsel how long he anticipates the defendant will be on direct examination?

DR. WILLE: Mr. President, this is extremely difficult to say. It depends how Professor Weltz will react to my questions. I personally estimate it to last one to two days.

MR. HARDY: Thank you.

THE PRESIDENT: The defendant George Weltz will take the witness stand.

(GEORGE AUGUST WELTZ, a witness, took the stand and testified as follows.)

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BY JUDGE SEERING:

Q. Held up your right hand and be sworn.

I swear by God, the Almighty and Omniscient, that
I will speak the pure truth and will withheld and aid
nothing.

(The witness repeated the oath.)

You may be seated.

A. My father was a pharmacist in Ludwigshafen. My grandfather was a physician. A brother of my father was also a physician. I visited various schools in Ludwigshafen and Mannheim. Nothing of any importance can be told about that period of time. I engaged in a great amount of sport, and in the year 1908 I entered the German championship for rowing. In the year of 1908 I was graduated from the Gymnasium and I subsequently studied medicine. The reasons which moved me to the study of medicine at that time I can no longer state exactly today. At that time, as was the case with most students, I had a very incomplete conception of the profession of a physician. I had a great number of wide interests at that time. I had traveled a great deal. In the year of 1911 I visited the United States of America for the first time. I was interested in art and philosophy. At that time all the branches of medicine seemed equally interesting to me. They were all new. I studied at Jena, Kiel, Konenigsberg, and Munich, where I had a great number of excellent teachers. I don't recall that anyone of these teachers exercised any particular influence on me. In the year of 1913 I took my state examination and went to Berlin to the Charite, and I worked with Kuelps at the Medical Polyclinic, and later with Franz at the X-ray Polyclinic. Around that time I learned to fly. I have the International Pilots Certificate No. 824. As soon as the First World War started I was attached to the Flying Battalion Schleissheim. I participated in the First World War partly as a pilot and partly as a physician. At that time I was concerning myself for the first time with aviation medical problems. . . . The problems concerned the selection of fliers which at that time was an entirely new field. Then we compiled accident statistics and works of similar nature. After the War had ended I went to Rostock, to Munich, to the first medical clinic, and after half a year I went to Sauerbruch to the Surgical Clinic. Working with Sauerbruch I gained the first real conception of what a physician is, and what the medical profession means. My X-ray teachers there were Schulz and Grassel. While with Sauerbruch I

saw the human attitude towards a physician. Sauerbruch placed the patient in the center of interest. He represented the point of view that the medical profession was an art and not a technical skill. He said it was an art in which one had to be talented and he always pointed out that when treating a patient science would have to remain a servant. That, of course, does not exclude that in other fields science becomes an end in itself.

In the year 1923 I settled down in Munich as a specialist in X-ray work, and I want to mention two researchers whom I was fortunate to know, and who exercised some influence on my trend of work. First was the Dutch researcher Storn van Leeuwen, S-t-o-r-n v-a-n-L-e-e-u-w-e-n. Storn was a physiologist and his special field was the Estaire Branch of study. I visited Storn frequently and we worked together. Our interests then extended to climatic diseases. We took balloon rides together studying that problem. He died in the year 1933. The other significant researcher who was a friend of mine and who exercised influence in my work was Phillipp Romser, a physiologist at the University of Munich. Romser encouraged me to start a little aviation medical department at his Institute, and I have much to thank him for scientifically. I was practicing X-ray physician and collaborated with a theoretical physician, and this is a practice which I followed in the future, prompted by the consideration that the isolation of the individual branches of medicine constitutes a weakness in itself which can be bridged over by such collaboration.

Q. If I understand your statements correctly your main profession is a specialist in X-ray work.

A. Yes.

Q. And you were active at your private institute in Munich?

A. Yes, ever since 1923.

Q. Could you please tell the Tribunal a little more about your professional activity and your memberships in various medical associations?

A. I was a member of the German X-ray Association for Internal

Medicine, Association for Research of Circulation, a Member of the Austrian X-ray Association, a member of the Italian X-ray Association, the German Physiological Association, the Munich Physicians Society, the Lilienthal Association, and I think this covers all of them.

DR. WILLE: Mr. President, subsequent to these statements of the defendant Woltz I submitted a list of his scientific publications. This list is contained in document Woltz No. 1, and is Document No. 1. I should like to offer it as Exhibit No. 2. This list is certified by Professor Woltz's secretary, who actually compiled it. There are 50 publications of Woltz himself and 41 by his collaborators.

Q. Professor Woltz, I shall have this document handed to you; could you confirm under oath that it represents a complete list of your scientific publications?

A. I tried to check this list as far as it was possible for me to check it and as far as I know it is complete.

Q. Would you be good enough to tell the Tribunal with what your work was concerned?

A. The largest part of my work is of an X-ray nature. I tried to embark on new roads. X-ray work so far had been morphology, which is to say anatomical study of living human being. I tried by using new methods to start an X-ray physiology, that is to say X-ray which does not bother so much with the form of the organs, but with the functions of the organs, consequently I applied methods which concerned themselves with known methods, or kymography and cinematography. Generally I never was interested in the rareness of the disease, but I rather tried to follow the physiological basic reasons of any given disease, and one can see that looking at a number of my published works. Another part of my work concerned itself with aviation medicine.

Q. Now, if I understand you correctly, your work is partly concerned with the field of practical medicine, and partly with scientific realization of that medicine. Didn't you also work on negative subjects, subjects of extermination, subjects as they were

designated by General Taylor when he was speaking here?

A. No, I never worked on any such subjects.

Q. Did you concern yourself with politics, sterilization, euthanasia, did you write about these subjects?

A. No, I never published anything.

Q. Later you were active as a lecturer and as a professor at the University of Munich; what subjects were you professor in?

A. I was an extraordinary professor for X-ray physiology.

Q. And how can you explain your activity in aviation medicine at the University?

A. In the year 1935 I received a lecture assignment for aviation medicine at the University of Munich. I lectured two hours a week, and as I already said I had instituted a small experimental department at the Physiology Institute of the University of Munich, which at that time supported me in my work, and this was the occasion for me to qualify as a lecturer.

Q. What was the purpose of your scientific travels?

A. You mean my scientific balloon travels?

Q. Yes.

A. Partly in order to do research in the South Wind problem, mainly from the medical point of view, then there were a number of meteorological questions which had to be clarified, for instance the formation of glorieles. Partly these were sport travels.

Q Did you connect any military purposes with these travels?

A No, the balloon at that time had no longer any military significance and this was agreed upon by all circles of the air-force.

Q Would you briefly describe your activities as a lecturer in aviation medicine?

A As lecturer in aviation medicine, I started to lecture two hours every week and I used my time, which I could spare from my practice, to work in the experimental department, which I had created. We did there what is designated as basic research work and were concerned with the basic questions concerning aviation medicine and the effect of the lack of oxygen.

Q And arriving from this activity, the Institute for Aviation Medicine in Munich was created?

A Partly, yes. The Institute for Aviation Medicine during the war was a military institute. My private department at the Physiological Institute was an institution of the University and at first had nothing to do with the airforce. There is a connection on the other hand, because the Institute for Aviation Medicine had been created by the Luftwaffe because the foundation for it was already present in the civilian department.

Q What were the questions that the civilian department was working on at the University?

A These were questions concerned with basic research.

Q And these questions were mainly of a scientific character?

A They were exclusively of a scientific character. We did not at all deal with practical questions.

Q Would you please tell us something about your political past?

A I never concerned myself very much with politics. When we returned from the first World War, we began to know politics in a very unpleasant form. Revolutions prevailed and afterwards there was inflation. Particularly at this time a number of elements came up in politics which convinced me that politics is a handicraft in the

exercise of which one could easily get dirty hands. I kept away from politics and did not become a member of any party. After 1933 one was faced with decisions which were imposed from the outside and which one could not circumvent. In my personal field I had to make a decision in two factors, first, concerning the German X-ray association. In the X-ray association there was a danger that the leadership of that association would fall into the hands of a few radical persons who up to that point had played no part in X-ray physiology. If we wanted to preserve the international reputation of the association and if we wanted to safeguard our representation abroad, then it was necessary that a number of X-ray workers become members of the Party, because only in this manner was it possible to do away with petty quarrels within the X-ray association.

The other field where I had been forced to make a decision was my department at the Physiological Institute. If I wanted to continue my work there, I could only do so within the Party. In the case of my balloon rides, in which I was very interested, it was possible for me to continue work within the framework of the Party. In the year 1937 I became a member of the Party without identifying myself with all the principles of that party. In particular, I always rejected the racial principles of the Party. I was never an anti-Semite and for that reason I had many Jewish clients in Munich. I continued treating Jews, in spite of the prohibition, up to 1944, but then I was denounced and I had to cease this because otherwise my practice would have been closed.

Q. I now go over to your activities during the war. When were you drafted?

A. I was drafted at the end of August in 1939.

Q. When did you go to the test station for altitude No. 4 in Munich?

A. At first I was in Neubiberg at a pilot's examination post, where I stayed until approximately November of 1939. I went to the

test station in January of 1940.

Q. Would you please describe to the Tribunal wherein lies the difference between the test station and a pilot's examination station?

A. The fliers examination post, where I stayed at first, carried out general investigation which is perhaps comparable to the investigation carried out by a life insurance company, whenever one tries to take out a policy. It is a very thorough examination of the circulation, heart, eyes, etc.

The test stations dealt exclusively with the investigation of altitude effects. At the beginning of the war the time had come when machines went up into high altitude and at that time a number of fatalities had occurred as a result of altitude sickness. These fatalities were explained by the fact that altitude sickness, as it has been described here frequently, causes no pain whatsoever, but on the contrary in its first stages has an intoxicating effect on the person, causing him to have high spirits, which leads to an over-estimation of his own powers and which in no way appears to be dangerous to the person involved. Because of these peculiarities^{of} altitude sickness a number of fatalities had occurred. It was therefore decided to cause altitude sickness at certain intervals of time on all the flying personnel in order that one could demonstrate the peculiarities of that sickness to them in that manner and in order to draw their attention to the necessity of recognizing the first symptoms of that sickness in themselves. These examinations were carried out at the test stations in series and normally twenty to thirty persons were examined per day. The persons got this altitude sickness within three to fifteen minutes and in this manner they gained the knowledge which they had to apply when actually flying.

Q. In that case you were the head for the test station for high altitude effect No. 4 up to the creation of the foundation of the Military Institute for Aviation Medicine?

A. Yes.

Q Well, how did this foundation of the Military Institute for Aviation Medicine come about?

A. Continuing the tradition of my civilian department, we carried out a number of scientific examinations at the test station No. 4. That possibly was the reason for Hippke's suggesting to me in the summer of 1941 that a larger institute should be created in Munich. This institute had been planned on a large scale. It was to be connected with an Ordinariat at the university and a number of new buildings were provided. I had misgivings about this large-scale project because in the final analysis I wanted to remain an X-ray physiologist. All these large-scale plans were dropped anyway because of aerial warfare, and a similar institute was founded which essentially continued the traditions of my civilian department.

Q. Then you were designated as the head of that institute when it was founded?

A. Yes.

Q. What tasks did the Military Institute for Aviation Medicine have?

A. The Military Institute for Aviation Medicine, as I already said, continued the tradition of the civilian department, that is to say, it mainly concerned itself with basic research, animal experiments, whereby particular attention was given to problems with which we had dealt earlier, which was a lack of oxygen and general physiological questions, for instance, collapse.

Q. Was the research program prescribed, which you were ordered to carry out as a certain plan?

A. I discussed the broad outline with Hippke, upon which the institute was to be active, but by and large I had a free hand. There were a few exceptions. The Reich Aviation Ministry and Medical Inspectorate commissioned me with a number of questions which we had to solve, but these were relatively rare cases and the tasks had no particular importance.

Q. What was your relationship to the Reich Research Council?

A. We had no relationship to the Reich Research Council.

Q. You say that you had a free hand. Is it to be attributed to you then, that your institute specialized in the rescue of fliers?

A. Yes, we specialized in finding methods for the rescue of fliers, and this according to my plan; but this plan was worked out in agreement with the intentions of the Medical Inspectorate.

Q. Did the Military Institute also deal with questions of extermination, killing, or the effect of offensive weapons?

A. No, no such questions were ever worked upon by us.

Q. Would you please indicate who your collaborators were?

A. My oldest collaborator was Dr. von Werz. Werz came to me

during the beginning of the war because he had reason to change his residence. He was being looked for by the Gestapo, was persecuted for racial reasons, and for that reason decided to give up his position as a chief pharmacologist in a larger pharmaceutical institution. I was in a position to engage him in my institute through a civilian contract and he succeeded in staying with me throughout the entire war without any interference. There was some question about that from Berlin which threatened his position but Becker-Freyseng managed to save the situation. Werz was a pharmacologist. He originally wanted to qualify as a lecturer but that did not materialize and he came to me afterwards. My second collaborator was Lutz, L u t z. I took Lutz from an ack-ack battalion. At that time he was a rather unknown man, but while working with me developed very quickly into a very good and significant scientist. My third collaborator was Wendt, who was an X-ray physiologist, and mostly worked upon the X-ray questions. He took care of the entire correspondence of the Institute and simultaneously was head of the test station after I had become head of the Institute. Later, on under a civilian contract, we employed a physiological chemist, Dr. Sehlkopf, who also came from the pharmaceutical industry. This was the basic staff of the Institute. Then we had a number of collaborators who, however, came and went, and who only became temporary members of the Institute. These were Dr. Ranten, who came from the front and wanted to do his doctor's thesis. And there were a number of people who for other reasons wanted to do scientific work for a time. I had no influence in the selection of these fluctuating and changing collaborators, but in many instances they were just assigned to my Institute without my ever knowing them.

Q. How would you please briefly describe what your tasks were as head of the Institute?

A. As chief of the Institute I at first reserved for myself a field of work, for my own research work, and in addition it was my duty to establish the policy of the entire Institute. As a rule we had discussions once a week during which we exchanged our experiences. Everybody reported what he had worked upon and a future program was determined. Since we were rather small and since we didn't have enough collaborators, a danger existed that we would disintegrate and go different ways, and for that reason I attached value to the continuity of the whole task being preserved. I wanted to see that a number of essential problems were selected and that we should concentrate our entire energy upon these problems. At the very beginning, particularly, there was an inclination to follow up every idea which was considered to be good, and in this manner a number of tasks were started which were never finished. New ideas originated which meant that old work was put aside. Finally, we drafted a program which had to be observed rigidly and which represented our exact line of work.

Q. I shall now turn to the individual counts of the indictment. You were charged with having participated in a conspiracy. I shall deal with this point only when all of the other points have already been clarified. The next count and almost the only count which is to be taken seriously is your connection with the high altitude experiments at Dachau. They are all centered around the name of Rascher. I therefore ask you at first, when did you first hear of Rascher?

A. I heard of Rascher for the first time in the summer of 1941. I heard of him through Kottenhoff. Kottenhoff at that time told me that Rascher had approached him and had suggested that he carry out the high altitude experiments at Dachau. Kottenhoff, I may explain, was at that time an Oberfeldarzt with the Air Gau Command. Kottenhoff in the years 1938 to 1939 had already been with my civilian department.

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He received his specialists training at the Physiological Institute at Munich. Later he qualified as a lecturer at my Institute and worked in my department as a guest whenever he visited Munich. Among other matters, he at one time started a series of experiments with a monkey.

Q. Dr. Wolts, I shall now have the letter of Rascher to Himmler, dated 15 May, 1941, handed to you.

THE PRESIDENT: Before starting on that phase of the examination the Tribunal will be in recess.

(A short recess was taken)

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THE MARSHAL: The Tribunal is again in session.

BY DR. WILLE:

Q Dr. Woltz, just before the recess I was about to give you Document NO-1602 PS, Prosecution Exhibit 44; and that is where we stopped at the recess. I shall now send the document up to you. I understand you have it already. Please refer to it. The prosecution maintains and I should like to hear your attitude about this--that you are the representative of the Air fleet physician mentioned in this letter here.

A Rascher writes in this letter of the 15th of May 1941 first that he was assigned in Munich at the Luftgau Commando VII for a medical selection course. He also writes that high altitude research was important in this course because the English fighter planes had a somewhat higher ceiling. He alleged that it was mentioned in this course that unfortunately we had not been able to carry out experiments with human material yet since the experiments were very dangerous and no one volunteered.

He therefore seriously asks: Is it possible that two or three professional criminals be made available by you for these experiments? What Rascher writes here is very peculiar because it is likely to have been generally known at that time that in the Luftwaffe there was hardly a well-known research worker who had not performed extensive experiments on himself. From the large number of names I should like to mention only a few here. Ruff, Romberg, Becker-Freyseng, and Lutz have already been mentioned. Klamann, Frauenberger, Doehring, Benzinger, Luft, Fobritz, Kettenhoff, Halbach, Sauer, those are only a few names which just occur to me. There were some heroic experiments, for example, Benzinger-Halbach experiments on explosive decompression up to 19,000 centrifuge experiments by Doehlen.

He stayed in the centrifuge until he had subcutaneous hemorrhages, that is, his whole skin by the centrifuge, which was a sensational thing at the time.

We know of all these experiments, and there was hardly anyone familiar with aviation medicine who could have made such a remark. Now, this remark could only have been made at a report on high altitude aviation research. The three lectures which were held on altitude during this course I knew.

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I held one of them myself. I did not say that. Buchner made one and Kottenhoff the third; and I heard both lectures; and the other two lectures did not contain this assertion either. We know from further developments that he means here Kottenhoff's lecture; and Kottenhof certainly did not say that either, certainly not in this form; and he says the same thing himself in a affidavit.

Now, Rascher goes on to write that the experiments are made at the Bodensteinische Prüfungsstelle fuer Hochforschung der Luftwaffe in Munich. The head in this institute at the time was myself. Rascher did not come to me, although I was a lecturer at this course. I did not give him permission to perform these experiments at this institute; and I would not have been able to give him that permission to perform these experiments at this institute; and I would not have been able to give him that permission. That would have been something which would have absolutely required consultation with the Medical Inspectorate and the approval of the Medical Inspectorate. I consider it impossible that Kottenhoff gave him this permission because Kottenhoff was not at this testing station; he was with the Luftgau. He was in charge of the department for therapy and care; and he could not and did not give Rascher this permission, I am convinced of that.

Now, if Rascher goes on to write: the experiments during which, of course, the subjects could die were to take place with my cooperation; that they are carried out on monkeys as hitherto because monkeys are of an entirely different test condition; as I said already he mentions monkeys because Kottenhoff's lecture referred to his experiments on monkeys. I have had a very confident talk on that matter with the representative of the air fleet physician who did make this research experiment, and he was also of the opinion that the problems involved can only be solved by experiments on human beings.

I know from what Kottenhoff has told me, that Rascher did talk to him at that time, and, after all, Kottenhoff says that too in his affidavit. On the otherhand, Rascher himself writes that the conversation was absolutely confidential. This shows that he did not talk to me. As far as the representative of the air fleet physician is concerned, he was neither Kottenhoff nor myself. The air fleet physician was Paris, at that time. He had no representative in Munich. At least we two were not his representatives. One must, therefore, observe, that in this letter Rascher has made quite a lot of confusion with partly half-truths, mostly however completely untrue statements. These are apparently made for a very definite purpose, and, I imagine the purposes of this letter is for Rascher then to make Himmler believe that there was an urgent need for human experiments. He also wanted to make him believe that he has talked to some competent persons on the subject, which could not have been the case according to the state of affairs. He obviously expected that if Himmler gives him the permission, the other authorities involved, that is myself, the air gun, the

medical inspector, and so forth, that is, if an order of permission from Himmler is presented, that we could not oppose his wishes. I think that is rather clear in the contents of this letter of Rascher's.

I therefore, state once more that Rascher did not talk to me at all at the time. He certainly did talk to Kettenhoff. In his lecture Kettenhoff certainly did not make the statement which Rascher put in his mouth. He talked about the adjustment of monkeys and rabbits to high altitude, and I know nothing at all of the whole developments at the time. It was quite impossible that during this course he obtained permission or assurance that these experiments would be carried out at the Luftwaffe Testing Station for altitude research. There was no one there who could have given him this permission.

DR. WILLE: May it please the court, I, pursuant to the testimony of Dr. Woltz, shall now submit the affidavit by Dr. Kettenhoff, which has already been referred to several times. This is contained in Document Book I of Woltz Document No. 2, and at the same time with this I submit here a publication by Dr. Kettenhoff which has the file: "Increase of endurance for high altitudes." This is contained in Woltz Document No. 2, Document No. 18, and both documents together will be Woltz Exhibit No. 3. From this affidavit I would like to make the following brief statements. On page 2 Kettenhoff states, at the top—

THE PRESIDENT: Dr. Wille, the documents being contained in separate document books, I suggest that they be marked separately as Exhibit No. 3 and Exhibit No. 3-A.

DR. WILLE: May it please the court, in accordance with your Honor's ruling, I shall submit these documents as Exhibits

Nos. 3 and 4. Perhaps I may briefly come back to what I was about to say. Kottenhoff said on page 2, first, that during the training course, he gave a lecture on high altitude as to the adaptability of rabbits and monkeys. He confirmed thereupon that after the lecture, that Rascher approached Kottenhoff, and that the two of them had a confidential discussion together. On page 3 of his affidavit Kottenhoff confirms that Rascher made the proposition to him to have high altitude tests made on professional criminals, and that they had to be volunteers. He also said in his affidavit, that is, Kottenhoff, and I shall quote the last paragraph on page 3: "Several weeks after our first discussion Rascher came to me, and informed me for the first time that he had approached Himmler for permission to conduct high-altitude adaptability experiments on professional criminals, and that he had received the written permission from him. Thereupon I expressed once more my scruples as stated under No. 12, promised him, however, to discuss the matter with Professor Woltz. In the subsequent discussion Woltz shared my scruples." End of quotation.

I, therefore, came to the conclusion if your Honor please, that Professor Woltz, as far as all these matters are concerned, heard only many, many weeks later about them, and, as it has been proved, he is not the person who has had the conversation with Rascher.

Q Dr. Woltz, I shall now come back once more to Rascher's letter to Himmler; will you tell me in a few brief words what did Rascher intend with these incorrect statements?

A I believe I have already indicated that. I interpret the letter to be that Rascher, during Kottenhoff's lecture got the idea of performing experiments on human beings in Dachau; that without saying anything to Kottenhoff about it he got permission from Himmler that in order to obtain this permission he pretended to Himmler that he had talked to authorities and that there was urgent need for these experiments and then it seems to me that Rascher at that time already intended to qualify as a lecturer, because the fact that he mentioned the testing station for altitude research as the agency which was to carry out the experiments leads us to believe that at that time he was looking for a contact with the University which would have been possible through me, and the Physiological Institute with Testing Station 4.

Q Dr. Woltz, I will now hand to you an essay by Kottenhoff and by Frau Ruehl-Stanislaus. This essay is on experiments on monkeys. Your Honor, this essay is in Document Book 2 of Woltz, page 69 and 70. Dr. Woltz, will you please explain this paper?

A This is a correction sheet of a paper which Kottenhoff later published in the journal for Aviation Medicine. It is No. 33 in the list of publications which has been submitted by my assistants.

DR. WILLE: May it please the Court, Document 17, I shall submit this paper which will become Woltz Exhibit 5.

Q Dr. Woltz, what did Kottenhoff tell you when for

the first time he talked to you about Rascher's plans?

A Perhaps I may first comment briefly on this paper. It is headed "Increase of the degree of resistance to high altitudes through acclimatization in the case of Rhesus-monkeys." And in the summary Kottenhoff describes how he tests the adaptation to altitude with monkeys, and how he succeeded, by making the ascent extremely slow, in reaching a higher altitude, and keeping the monkey alive longer than was possible through the quick ascent. These are the same changes which Kottenhoff and I had already previously determined in rabbits. There are a group of reactions which in aviation are called acclimatization to high altitude.

Q Now, will you please answer the question which I put to you before and which you haven't answered yet. What did Kottenhoff tell you when he talked to you about Rascher's plans for the first time?

A Kottenhoff said to me that Rascher was acquainted with Himmler -- that Rascher had obtained permission from Himmler to perform experiments on human beings. He said that the subjects were to be professional criminals, that these people were to volunteer and then were to receive a reduction of their punishment and at that time Rascher had suggested to Kottenhoff that this effect of acclimatization to altitude which I just read about from Kottenhoff's paper, this effect should be tested. I said to Kottenhoff that these acclimatization tests were no doubt quite interesting physiologically but that for practical aviation medicine they were without any significance because this effect of adjustment occurred only when one delayed the ascent for hours; but since the times for descent during war-time do not become longer, but are radically

shortened, and therefore the effect had no practical significance whatsoever. Kottenhoff had misgivings against Rascher's suggestions for other reasons. He states the point in detail in his affidavit.

As far as I know as to Rascher's plans there was a conversation between Kottenhoff and Hippke; you were present during this conversation, and what do you know about it?

This discussion was no doubt occasioned by what Rascher had said, but it was not really a conference for the execution of these experiments. On the occasion of a visit to Air Gau VII Hippke had invited us in the evening; there were about 15 men from the Air Gau. I was sitting at Hippke's left. Kottenhoff first was sitting at the lower end of the table. Then Kottenhoff came up, sat down between Hippke and myself and asked Hippke and later told Hippke what he had heard from Rascher, and he asked Hippke what his basic attitude towards these experiments was. Hippke and Kottenhoff debated the problem back and forth for a while. Kottenhoff said to Hippke that under these conditions one could perform experiments because in the last analysis these experiments were for the benefit even of criminals, and since the formulation which had been brought out seemed to me rather unfortunate I intervened toward the end of the conversation and tried to explain to Hippke my own opinion on this point. I had a rather clearly formulated opinion, because not too long before I had read De Kruif's book "Hunger Fighters." My friend Storn van Leeuwen had given it to me and Storn van Leeuwen had told me about De Kruif. He was an American of Dutch descent. He knew Storn van Leeuwen, and had visited him intending to write something about Storn's work.

DR. WILLE: May it please the Court, at this point may I ask the Court whether as an exhibit I would be allowed to submit extracts from the just mentioned book by De Kruif. I recall in this connection that a little time ago the Court ruled that the defense would be allowed to submit all material connected with the human material only at the end of the presentation of evidence. Now, this document I do not wish to submit in connection with the legal aspects of human experiments, but only to prove that in this conversation between Woltz and Hippke which dealt with the conditions of experiments, Woltz acted in good faith, and therefore I think this document has a different significance in this connection than just to explain the experiments to the court. May I submit it here?

MR. HARDY: May I inquire Your Honor more specifically what document he is referring to?

DR. WILLE: Your Honor, this is an extract from the book by De Kruif and it is only that part of the extract which deals with the experiments by Goldberger.

THE PRESIDENT: Doctor, which document is that?

DR. WILLE: It is in Document Book Woltz 13, and I would offer it if the court permits me, as Exhibit No. 6. May I mention here, Your Honor, that the book is in my possession.

MR. HARDY: Your Honor, I still make a sincere attempt to find out what document they are referring to?

THE PRESIDENT: What is the number of the document to which you refer?

DR. WILLE: In Document Book Woltz, as I told Your Honor, it is Document No. 13. May it please the Court, it is on pages 59 to 63 of the English Document book. May I offer this Document?

MR. HARDY: Your Honor, may I ask what the defense counsel is attempting to prove by using this Document. This fits clearly into the criterion of the other Documents wherein the Defense is making an attempt to show that experiments were being conducted in other countries and I think this should be delayed until the date, when the Tribunal can rule on this Document at the same time as it will rule on all other evidence of this nature. I don't see the connection of Woltz with this material.

THE PRESIDENT: Will the counsel for the defendant please state again what his purpose is in offering this Document, what probative value he thinks it has?

DR. WILLE: May it please the Court, as I said before, this Document, rather the Defendant Woltz referred himself to this Document, because he told the court at that time he explained his knowledge of the admissibility of human experiments to Hippke and he based himself on this book of De Kruif. Therefore, for Woltz in this case the question is not to explain the limitations of human experiments to the court, but only to make it credible to the court that at that moment Woltz was informed by an internationally well known book that such experiments were admissible. I do not wish to enter a debate on the limitations of human experiments.

MR. HARDY: Your Honor, that being the case, I would think a statement of counsel is all that is necessary here and the Document could be offered at a later date with the others.

JUDGE SEBRING: Dr. Wille, you are referring to Document No. 13 in Woltz Document Book 1 at page 59? Witness, when did you first become familiar either with this excerpt in your Document book or the book itself, entitled "Hunger Fighters?"

THE WITNESS: The book "Hunger Fighters" belonged to Storm van Leeuwen and he gave it to me.

JUDGE SEBRING: When?

THE WITNESS: In 1933 he died and he must have given it to me before 1933.

JUDGE SEBRING: And what conclusion did you draw from the book at the time and particularly from this excerpt?

THE WITNESS: The experiences of Goldberger described in this book I considered the school model for what is permissible in accordance with international standards, and I told this to Hippke in this form.

JUDGE SEBRING: You believed in good faith that this represented the international medical standard in regard to the matter of experimentation upon human beings; is that correct?

THE WITNESS: Yes.

JUDGE SEBRING: Dr. Wille, was that the purpose for which you were wanting to offer this exhibit at the present time?

DR. WILLE: Yes, it was.

JUDGE SEBRING: Then there is no particular necessity for your pursuing the matter further at this time?

DR. WILLE: No, sir.

THE PRESIDENT: The Document then will be admitted for the purpose mentioned by counsel and limited to that purpose; that will be Exhibit 6, counsel, will it not?

DR. WILLE: May it please the Court, I offer it as Exhibit No. 6.

THE PRESIDENT: The Tribunal assumes that counsel does not intend to read this Document into the record.

DR. WILLE: No, Your Honor, I do not intend to read the Document into the record, but only to offer it to the Court and to put a few brief questions to the defendant, Professor Woltz, following this discussion of the Document. I want to ask you this regarding the point Hippke; what caused you to quote a popular book or refer to a popular book between scientists and experts; don't you think in that conversation, it would have been more sensible for you, to refer to a really expert scientific work in this connection?

THE WITNESS: I have already said that the formulation, which Hippke and Kottenhoff had seemed to me rather unclear and that I felt a need to clarify my point of view and formulate it clearly. This example happened to occur to me and this was good because it shows very clearly the points which I was interested in and then I explained these points to Hippke. I said to him, first of all the experiments concern urgent matters which can not be clarified by animal experiments; secondly, the criminals must be volunteers and third, they must receive a reward. These were the conditions, which I dealt with in considerable detail. In this book, there is much more detail than is customary in scientific works. In scientific works in general one finds only brief technical statements performed by so many persons, such and such were the conditions, while here in De Kruif's book the human conditions are described in considerable detail and very clearly. That the statements made in the book are correct, I had no doubt. I said before that Stern van Leeuwen and De Kruif know each other personally. I knew that De Kruif was one of the most popular and

respected medical authors in the field of popular science. This was for me guaranteed enough to be able to mention the book to Hippke. Moreover the general popularity and the wide circulation of such a book is the best standard for what is considered permissible and what is not. De Kruif's books were printed by the million and were translated into many languages. Even if the statements made in the book were incorrect, which there is no reason to believe, at least the book would be proof of what internationally the general public considers permissible. That, as I said, are the reasons which at the time made me to present this classic example to Hippke and I believe even today it was a very suitable example.

DR. WILLE: If Your Honors please, in Document Book Beltz No. 2 under No. 19-A to C, on pages 72 to 76 of the English document book, there are three documents which have the purpose of supporting the credibility and significance of De Kruif's books which the prosecution's medical expert has challenged. I intend to submit these documents formally at this point without reading them and taking up the Court's time with them, but since the first document has been admitted in this connection I believe it is logically necessary also to submit these three annexes at this point.

MR. HARDY: May it please Your Honors, during the course of this trial I believe I have objected to documents being admitted into evidence nearly a hundred times or better but for the first time I am lost for words. I have read these documents and to use the word immaterial might be fine but they are not even remotely connected with what is in issue here and I can't see why they should even be tendered. I object to their admission, Your Honors.

THE PRESIDENT: The Tribunal will take this matter under consideration and announce its ruling at one thirty o'clock.

DR. WILLE: May I continue now?

BY DR. WILLE:

Q. Now once more I want to go back to the conversation with Hippke during that evening in the Preysing Palais. Please answer this question. You said that Hippke gave his agreement to the experiments under the conditions as you described: volunteers, pardons to a sensible degree, and adjusting the sentences of the experimental persons?

A. Yes, only Hippke wanted us, and Kottenhof and I agreed, to limit it to exceptional cases where animal experiments would not serve the purpose, that is, this was not to become a standard. It was to be limited to urgent, exceptional cases and under these conditions Hippke had no basic objection to experiments being carried out, and I have already said that this was not a concrete case of a program which was being discussed. Hippke was merely discussing basic questions. Kotten-

hoff did not even ask him to be allowed to expand any program. Kottenhoff and I had already agreed that what Rascher had suggested to us so far was unimportant and it was quite out of the question.

Q. Was it a conversation which obligated you? Was a program decided on concerning your future handling in the institute of these things?

A. No, that was not the case. Rascher was not in my institute yet at that time. As I have said, it was a conversation without any definite practical intent. It was a theoretical conversation as to whether and to what extent experiments can be performed on criminals, etc.

Q. Did you talk to Hippke about experiments on non-volunteers?

A. No, we did not discuss that. In the last analysis the subject had been brought up by Rascher and Rascher himself spoke only of volunteer subjects.

DR. WILLE: May it please the Court, I now submit Document Weltz No. 3 and I offer it as Exhibit Weltz No. 6. I am so sorry, No. 7. This is a record of a statement made by Professor Hippke in the case against Milch. Professor Hippke gave his version of the conversation which he held in the evening in question.

MR. HARDY: May it please Your Honors, the Tribunal has ruled here that, whenever extracts from another trial are offered to the Tribunal to take judicial notice thereof, it was necessary and a regulation that said extracts be certified by the Secretary General either of the IMT or the Secretary General of the tribunal here. I won't object to this being offered in evidence but I suggest that it be offered provisionally and in order to follow the ruling of the Tribunal that the said certificate from the Secretary General be obtained in each case of this nature.

THE PRESIDENT: Counsel is correct. When there is offered before this Tribunal what purports to be a transcript of the testimony before another tribunal, that should be offered in the form of a certificate

by the Secretary General that it is an official record of the transcript of the testimony and when it is so offered the Court will take judicial notice of the testimony. It may be numbered as an exhibit or not, that will be immaterial, but the Court will take judicial notice of it and this will be admitted provisionally subject to the signing of a proper certificate that it is a record of the testimony by the Secretary General.

DR. WILLE: If Your Honors please, may I explain this. Four or five days ago I took this extract to the Secretary General which I now offer, in order to act according to the Court's ruling. Unfortunately I did not receive the document back and therefore I am unfortunately not in a position to follow the Court's ruling immediately but I will take the liberty to hand in the document later on.

THE PRESIDENT: That will comply with the ruling of the Tribunal.

BY DR. WILLE:

Q. Witness, once again I come back to the subject which we originally discussed before we discussed the handling of document. This conversation with Hippke was caused by Rascher's intention to make the experiments in Dachau. Now, what was Rascher's own attitude toward these experiments? Did he himself not always refer to volunteers?

A. The first time when I heard from Kottenhoff about Rascher's suggestions, Kottenhoff was speaking of volunteers. Later, after the talk with Hippke I spoke to Rascher; Rascher also spoke only of volunteers. And then when we talked to Ruff-Romberg at my Institute, Rascher again spoke of volunteers. At the Nurnberg conference, in the remark which he made about Holzlochner's lecture, he again spoke of volunteers. He also spoke of volunteers on the way home from the Nurnberg conference to Stabsarzt Kraemer from St. Johann, as I see from an affidavit here. In the letter of Rascher's uncle, which has been submitted, it was stated that Rascher had said the subjects were volunteers. I never heard Rascher say anything else but that the subjects would be volunteers and, as I have said, that was the reason for us not to discuss involuntary experimental subjects with Hippke.

DR. WILLE: If your Honor please, may I interpolate here briefly for your information that the affidavit mentioned here just now by Kraemer was submitted by Dr. Welte on behalf of the Defendant Handloser and it is in that document book, Exhibit No. 18.

Q. Witness, will you now tell me what happened after the conversation with Hippke?

A. After the conversation with Hippke nothing happened. It was not expected that anything would happen. We had no assignment from Hippke to do anything. On the other hand Hippke had given his basic approval. I, in turn, had no occasion to do anything. I have already said that Rascher's suggestion of testing this slow ascent was rejected.

Q. Will you tell us in more detail what were Rascher's plans at the time?

A. Rascher's plans were to test how much higher one can take a human being if one takes him up slowly, compared to the altitude which he could stand if he is taken up quickly. If I take a human being up quickly, then at a certain altitude he suffers from altitude sickness and the speed with which this sickness occurs depends on the speed of the ascent. Now, if I protract the ascent for several hours, which would have otherwise been accomplished in a few minutes, if I draw it

out over four or five hours, then the body has an opportunity to adjust to the new situation. There are reactions, adaptations, and these adaptations of the body mean that in this slow ascent a higher ceiling is reached than in the fast ascent. I believe that Rascher wanted to test this rather unimportant effect in order to substantiate a notion he had. I would assume that he was counting on Kottenhoff's and my vanity as research workers when he suggested that we perform experiments on human beings concerning an effect, which we ourselves had discovered, because, as I said, there was no practical necessity for testing this matter.

Q. Could you explain how Rascher did come to your Institute?

A. I cannot explain that. I know nothing about it. I know only that presumably in November, 1941, I received a written announcement from the Air Gau that Rascher was transferred to our Institute. I did not request him. I did know through Kottenhoff that Rascher wanted to come to my Institute. I did not do anything to get him there. Wendt brought me this letter from the Air Gau. He was present. I was surprised. I could only guess that Rascher had apparently convinced some authority at the Air Gau that he should be transferred to my Institute. The that was, I do not know.

Q. How did matters progress with Rascher in your Institute?

A. Rascher came to me. I refused to allow him to test this slow ascent and how he wanted to perform cold experiments. In the summer of 1941 I had been in France and I visited the Sea Distress Stations. I had been interested in the cold problem and I presume that Rascher deduced from this trip that we were interested in cold. Just as Rascher always took up all ideas that came within his grasp, he took up the problem of cold and he suggested to me that he should perform cold experiments on human beings.

Q. Did you approve of that intention to perform cold experiments?

A. I refused these experiments too. I saw no necessity for human experiments. The necessary preparatory animal experiments had not been

concluded yet, and these animal experiments promised great success at the time, so that we had no reason whatever to perform any experiments on human beings, and I refused to let Rascher perform these experiments.

Q. Did you tell Rascher that Hippke could not be gotten for experiments in Dachau?

A. I told Rascher the point of view which Hippke had explained to me, that is, that Hippke, just like myself, was of the opinion that under certain conditions, which we considered correct, one can perform experiments on human beings, but that this must be reserved for really urgent cases, where nothing can be done in any other way. This was Hippke's point of view and I informed Rascher of this point of view of Hippke's.

Q. How did you treat the whole Rascher matter towards your colleagues in the Institute?

A. Dr. Lutz has already testified here and has said that I discussed the questions on human beings with him too; that we spoke of it in the theoretical sense. Lutz did not have any new ideas on it. I told him about the discussion at the Preysing Palais. I told him what conclusion we had reached and Lutz had no new contributions.

Q. Now the question which has been gone into by various people before: did you ask one of your colleagues to make experiments with Rascher in Dachau?

A. No, I did not. There was no occasion to do this. I did not want to perform any experiments in Dachau at that time. I did not ask Wendt or Lutz, or Werz or any other one who was in my Institute to perform any experiments.

Q. But later on, you allowed Rascher to make experiments with Ruff-Romberg. Why in that case, did you not carry out those experiments in your Institute with Rascher?

A. In the experiments with Ruff-Romberg, we were dealing with completely different experiments. These were urgent at the time and Ruff-Romberg have already explained here why, and I gave my approval for these experiments, but these experiments were of a completely

different degree of importance from the suggestions which Rascher had made.

Q. Did you not once seriously ask your colleague Lutz to make experiments with Rascher in Dachau?

A. I told Lutz that Rascher's suggestions would not divert us from the set program of the Institute, which was laid down in writing. Rascher was a man about whom we knew nothing in particular and I did not have the slightest reason to change my Institute's program which had been discussed at length and which was planned for the long range, just because a young unknown doctor came to us with certain suggestions. I told Lutz that. I said, "I will not perform any experiments in Dachau. Do you want to?" That "Do you want to?" was a purely rhetorical question and Lutz doubtlessly understood this rhetorical question in the way it was meant. Lutz has testified here, that he did not know that any program existed. Lutz testified falsely that I made a suggestion to Wendt. At this discussion, which can be the only one in question, Wendt was not even present and Wendt will testify here himself that I did not make any suggestion to him, nor did I make any suggestion to Lutz in his presence. Lutz also asserted that he answered me that he was not robust enough for such experiments. I do not believe that Mr. Lutz could have made any such an answer, because he would have made himself rather ridiculous. Of course, I know the opinions and habits and the life of my assistant, with whom I worked for four years, and I don't want to go into those things in too much detail here; but I can say that Mr. Lutz certainly had no reason at that time and no opportunity to say to me that he was not robust enough for those experiments. Otherwise, I would have reminded him that that answer would have made him appear rather ridiculous. I did not tell Lutz that he was too religious for those experiments either, because that was not my opinion. This conversation has been presented quite incorrectly by Lutz. I repeat, I told Lutz, as I recall, that I would not let Rascher change our plans. I told him, "I will not perform any experiments in Dachau; would you like to?"

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I do not doubt that Lutz understood this rhetorical question
rightly at that time.

THE PRESIDENT: Counsel, the Tribunal will now be in recess until
1:30 O'clock.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 6 May 1947.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The objection interposed to the admission into evidence of Defendant's Document No. 19a, and the following documents, is sustained. The document will not be received in evidence.

Counsel may proceed.

DR. GEORG WELTZ - Resumed

DIRECT EXAMINATION (Continued)

BY DR. WILLE (Counsel for the Defendant Weltz):

Q Defendant Weltz, you have not yet completely answered my question 59 which I asked you, the very important question about Lutz and the offer which you are supposed to have made to him. I mean, that you have not yet touched upon the following point: Lutz allegedly referred to the gentleness of his nature, and also allegedly said that he would not be able to look a dog in the eye without becoming soft-hearted. Do you remember any such statements?

A No, there isn't much I can say about that. I heard for the first time in this courtroom about certain scruples which Lutz had about his experimental animals. Lutz always complained toward me that he had too little experimental animals. He used a few hundred of them, but he never told me that he had any scruples in using them. I don't know why he is talking about that particular subject here.

Q Have you made enough remarks about his religious attitude? I don't remember that exactly at the moment.

A I don't want to go into that at great length. At that time it was not my opinion that Lutz was in any way particularly religious. Naturally, we had some imagination as to what his religious attitude was, but I never saw Lutz go into church. I never saw a religious book on his desk and I don't know how I could arrive at the opinion that Lutz was particularly religious and would give such a reply.

Q Now, when did Rascher for the first time approach you with

his plan, with his suggestion to perform experiments under you?

A I learned about that for the first time through Kottenhoff who told me about these suggestions. Then I was once together with Rascher and Kottenhoff. At that time he already spoke about his qualifying as a lecturer. I rejected that because he was an entirely unknown newcomer to this work. It is customary in Germany that before the thesis to qualify as a lecturer one would have to complete a number of other works. Rascher had completed some papers about the crystallization of salts, and the study as to whether one could exploit salts for cancer diagnosis or endocrine diagnosis. These papers, however, were not of such a nature that would have warranted his being suggested for qualifying as a lecturer. In addition, it would have been a matter of course for me to give preference to my own people, who had been working on that subject for a longer period of time. Later, when Rascher was detailed to my institute, which was approximately in November 1941, he made the suggestion to carry out cold experiments, as I already said. I also rejected that proposal.

Q Then in general, I understand you to say that up to about December 1941 there was no practical work of Rascher's at your institute at all?

A No.

Q Was that result of your antagonism, your rejection of his suggestions?

A Certainly. Had I approved, the experiments in Dachau would have begun immediately.

Q Now, the prosecutor assumes that in this time you attempted to overcome Hippke's alleged resistance to experiments in Dachau. Did you do anything in this direction?

A I already described in detail what Hippke's attitude was on the occasion of this mutual conference in the summer of 1941 at the Preysing Palace. At that time our attitude was quite clear. My opinion tallied with Hippke's. There was no reason to remove Hippke

in any way, but, on the contrary, I agreed with him fully. I didn't discuss this point with Hippke later, and I certainly didn't try to change his opinion in any way. There was no occasion for that.

Q Then from your answer I can note that the assumption of the prosecutor is incorrect that you attempted during this time to promote Rascher's plans in the Inspectorate? On the contrary, you actually prevented them?

A Yes. Up to that point I prevented Rascher's starting the experiments. I didn't suggest anything at all to Hippke and consequently nothing was done.

MR. HARDY: May it please your Honor, I have no objection to raise at this time; but for the Tribunal--and I'm sure for myself--it would be much easier to follow this examination if both defense counsel and the defendant would refer to the specific dates more often than they are at the present time doing. I think we could follow the chronological order and the sequence of events more thoroughly if they used the dates a little bit more often.

THE PRESIDENT: Counsel's suggestion is well taken; and it would be helpful if counsel and the witness would refer to the dates or approximate dates on which certain events occurred.

DR. WILLE: Mr. President, I would like to say the following to this suggestion of the prosecutor. I shall, in accordance with the suggestion of the Tribunal, endeavor to give the dates as accurately as possible; but I may point out that on the whole these are events which did not happen on definite dates, definite days, for example, I say that Rascher until the end of December 1941 was without any practical work.

THE PRESIDENT: Counsel, it is my intention to convey the idea to you to use probably only approximate dates just in order to preserve some orderly sequence so that it can be more easily followed, both as we hear the evidence and when the record is read.

DR. WILLE: Thank you.

BY DR. WILLE:

Q Now, Dr. Weltz, please answer the questions about collaboration with Dr. Ruff. How did you get into contact with Dr. Ruff

in December 1941?

A May I catch up with a few dates beforehand in order to clarify what perhaps has been unclear up to now? I know that Kottenhoff spoke to me for the first time before the conference with Hippke. Hippke's conference with Kottenhoff and me took place in the summer of 1941. I remember that this was a long day and that it remained light very long. Afterwards I was in France, active in sea rescue work. I traveled around France and examined the aviators who had crashed into the water and who had been rescued from the seas. I visited the hospitals in Cherbourg and Boulogne and the sea rescue stations, and subsequently had a conference in Paris with the fleet physician, in which Holzloehner and the chief physician of the Sea Rescue Service were present.

On this occasion we drafted a circular about rescue from the high seas. I cannot state exactly whether the first talk with Rascher took place before or after this journey. At any rate, the first talk with Rascher and the second talk with Kottenhoff regarding that subject still took place in the summer of 1941. Rascher could not have been detailed to my institute before the 1st of November 1941 because Kottenhoff states that he didn't find out anything about that. Kottenhoff then traveled to Rumania; and that was on the 1st of November 1941. In the course of November, another talk took place with Rascher. On this occasion, he suggested to me that I start the cold work. I think that these are the dates which I can mention in this connection.

In December of 1941, I accidentally went to Berlin on another matter; I also visited Ruff on this occasion. We discussed the work which was being done at the two institutes. All the rest is known essentially from the descriptions given by Ruff and Romberg. I told Ruff that Rascher was at my place. I told him that Rascher intended to carry out experiments at Dachau. Ruff on his part told me that he intended to continue his old series of experiments, the parachute descent from high altitudes, up to 12,000 meters, which was known to me already, but that

he could proceed only very slowly because of his difficulties. Not only did he have difficulties because of the experimental subjects being active during the day but also because of the fact that he was limited to a very small number of experimental subjects. Then, if those subjects adapted themselves very slowly to high altitudes in that case, they could no longer be considered normal experimental subjects, they would have to be eliminated.

The situation at that time for me was the following: Rascher, without any of my doing, had been detailed to the institute. It was quite clear that he was going to execute the order which he had received from Himmler. The conditions under which Rascher told us that he would execute the experiments were such that one could take the matter into consideration. Nothing originated at my place because Rascher's plans could not be tallied with our plans. It was different, however, in the case of Ruff. Neither Ruff nor I changed the plans of our institute because of Rascher, who was relatively unknown at that time, but the fact was that Rascher's plans to carry out experiments at Dachau seemed to fit into Ruff's experimental program and at the same time an easy solution was offered to him regarding experimental subjects, whereas in my institute Rascher's plans did not fit into the general plan of the institute.

I rejected Rascher's qualifying as a lecturer; but at that time I had no reason to believe that Rascher would not be in a position to fulfil the tasks assigned to him within the framework of the program which I had arranged with Ruff. Rascher, considered from the point of view of an assistant, was a well-trained physician. He had nearly completed his surgical training. At the Schittenhelm Clinic, which was one of the first clinics in Germany, he had been active in Munich where he made his doctorate. He had published a few papers, which speaks of a certain scientific interest. He had a quick mind and knew about the basical concepts of aviation medicine. That is in effect why he took part in that course. He had worked out his own

procedure regarding the distance measurements which he learned at Schoengau. Then, considering that one made demands to Rascher to fulfill the job of an assistant, one could well imagine that he was well up to it. Of course, the matter is entirely different if you consider Rascher as an independent researcher.

Rascher came to me with the demand that he qualify as a lecturer and start the career of a lecturer. For that his qualifications were not quite sufficient for me at that time. Today my judgment about Rascher in that regard is even more severe. Rascher, during the entire period, which I can overlook, did not have one original idea. He always claimed the ideas of others without any scruples and represented them as his own ideas. He started to work upon these ideas but he didn't carry out a single one of these ideas with any consequences. He always acted like a parasite and clung to someone else who had expert knowledge in any particular field. That may be the case with Ruff and Romberg, Holzlochner or Feix.

Rascher had no personal qualifications in the auxiliary sciences, such as chemistry and physics, and I want to make a clear differentiation here that it is quite different for me to judge someone simply as an assistant or to judge someone simply as an independent researcher. Of course, there is another judgment which is the moral judgment. Perhaps I may mention in this connection how my opinion developed in that regard. When I made Rascher's acquaintance for the first time in the summer of 1941, he was a captain of the medical corps of the Luftwaffe about whom I knew very little. He displayed the customary manners and I had to reason to become suspicious in that regard. Why should I have become suspicious? He was the same captain in the medical corps as any other captain I have seen. My moral judgment about Rascher, however, changed, when in February or March, 1942, I was told by my assistant Wendt and assistant Bergschmidt that Rascher had gotten his father into a concentration camp. My judgment became even more rejecting when I had this quarrel with Rascher about which I am going to speak later. Of course, my judgment became really negative when I saw his behavior during the Nurnberg Congress. To sum up, I must state that, from a moral point of view, my judgment about Rascher changed considerably according to the knowledge which I had about him.

If I now revert to that arrangement with Ruff - Ruff only attached value to see to it that these experiments were to be a mutual undertaking of both the institutes and that Rascher was to be employed as an assistant. As I said before his knowledge for that was sufficient in every way. During the entire further course of events nothing happened which could have been the result of the fact that Rascher had not been sufficiently trained.

Q Professor Waltz, then, during the time which you called your first period, you learned nothing against Rascher and his personality or his scientific ability. Now, I should like to come back to a point which is of decisive importance for you. That is the following: At that time, did you go to Adlershof for the specific purpose of offering your collaboration to Dr. Ruff or, in the vital sense, Rascher's assistance, or did this whole matter arise because you happened to be there, in the course of conversation?

A Yes, Ruff had been a collaborator. In a closer sense, we had been friends. We had collaborated in the field of aviation medicine and knew each other very well. As I stated before, I went to Berlin in order to visit Ruff and, at that time, I didn't know what Ruff was doing or what his work was. I didn't know at all that Ruff had intended to continue the final part of the first series of experiments. When I went to Berlin, I couldn't know that Ruff had started a series of experiments during which he had difficulties with the experimental subjects. Consequently, it only resulted accidentally during the conversation at Adlershof that these two institutions had mutual interests. Naturally, neither Ruff nor I did anything in any way which would have deviated from this originally intended program. Every one of us could only follow the interests of our respective institutes. It was my interest to see that Rascher, who was unemployed with me, would receive some reasonable occupation. I wanted to see that this unfortunate order or permission by Himmler, of which I knew that it would be carried out under all circumstances, would be exploited and used for an objective which was worthy. I wanted to see to it that the

experiments were to be carried out under proper expert leadership. As I say, that was my interest. It was Ruff's interest, on the other hand, to get experimental subjects. None of us deviated in any way from the program or the interests of our institutes. It was an accidental meeting of our mutual interests. We clearly arranged how we were to go about it. This was to be a mutual undertaking during which Ruff was to detail Romberg and I was to detail Rascher. Ruff naturally was to be the chief of Romberg and I, as a matter of course, was to be Rascher's chief. Ruff couldn't give any orders to Rascher. Rascher was a captain in the medical corps and Ruff was a civilian. I couldn't give any orders to Romberg because Romberg was a civilian while I was a soldier. Naturally, this is how the distribution was. It had to be that way. Furthermore, it was clear that I couldn't, in any way, retire. I couldn't just leave Rascher to Ruff. It was quite clear that I had to participate in these experiments by exercising supervision but not by actively participating. The program had already been determined. Nothing was changed in the program. It was clear that I was not to collaborate personally. If any publication had emerged from that work it would have been provided with the title: From the German Experimental Institute for Aviation, from the Aviation Institute at Munich, and it would probably have listed Romberg and Rascher as the authors. There was no personal cooperation on my part. There was no change of the program carried out by me. The program had already been determined when I came to Adlershof.

Q Do you still today, looking back on these things, do you take the responsibility for the agreements which you reached with Ruff at that time?

A It is my opinion that this arrangement to which I came with Ruff was unobjectionable in every way. I take full responsibility for it.

Q Now, please explain to me and to the Tribunal - did you immediately on the spot in your first meeting with Ruff reach a final agreement to the effect that experiments were to take place in Dachau?

A No, Ruff has already described that. Ruff wanted to consider that and he couldn't come to any arrangement with me immediately. At least not to any binding arrangement. Ruff himself needed Hippke's permission. The basic permission by Hippke or rather the fact that Hippke had no objections of any basic nature against these experiments I knew and this is what I told Ruff.

Q Now, would it not have been a natural thing, at the time, to negotiate personally with Hippke for his approval of the experiments? You had talked to Hippke in Munich in general about experiments on condemned persons.

A I didn't do that intentionally. I knew what Hippke's opinion was. In the case of the new series of experiments we were concerned with a plan which had been drafted at Adlershof. Its necessity could be founded at Adlershof in a much better way than at my place. Adlershof was in connection with the technical circles whereas I had no such connection. I knew that Hippke would only approve important experiments and I wanted Hippke to decide, without my influencing him at all, whether this series of experiments was in compliance with his conditions and whether he considered it to be important or not. I wanted Hippke to make his decision without any influence and that is exactly what he did. He gave Ruff the permission to carry out the experiments.

Q Professor, you have already told us a little about your opinion with regard to Rascher's personality and qualifications, his scientific and non-scientific characteristics which he had at the time. Now, will you please tell us what you told Dr. Ruff in this respect?

A. At that time I naturally told Ruff everything I knew. I said in detail what I knew when I went to Adlershof. I knew nothing about the moral side of the matter. On the other hand I knew what I have already testified here about the medical training. Since Rascher at first had no permanent task assigned to him in connection with these experiments and since Romberg was to be the permanent man, it really didn't play any particular part whether Rascher had progressed further or not in his training. I am sure that he could do what he was supposed to do there and I already emphasized that no difficulty arose because of the fact that Rascher had not been sufficiently trained. Naturally, as Ruff and Romberg have already described, I told Rascher the exact conditions under which this matter was to be carried out, that these were to be professional criminals sentenced by ordinary courts; that they were to receive awards, etc. All of that has been described here frequently in detail.

Q. Now, I refer to your agreement with Ruff, a question which, in my opinion, is of the greatest importance to the Tribunal. Did you not have misgivings against the experiments being carried out in concentration camps? What did you know at that time, at the end of 1941, about concentration camps?

A. From my point of view I didn't really think that experiments were to be carried out in the concentration camps. From the outside I had been impressed with the necessity to face that problem. At that time I knew little about concentration camps. I knew, just as many others, that there were two camps, one at Dachau and one at Oranienburg. I only heard of Buchenwald later when Thaelmann had been killed because of an air attack. I knew that political and non-political prisoners were kept in concentration camps. I knew that at the beginning of the war all the old prisons and penitentiaries had been vacated and had been transferred to the concentration camps. Consequently, I was not surprised that experiments, which in literature are always described as having taken place in prisons, were now being carried out in concen-

tration camps. That didn't surprise me because I knew that prisoners in penitentiaries had been transferred to the concentration camps. Naturally, I knew that a number of Jews from Munich had disappeared into the concentration camps for a certain period of time. I remember a colleague of mine who came back after approximately four months. I didn't speak to him personally but I heard from other colleagues that he reported that he had been treated quite correctly. In addition I may remind yourself, Dr. Wille, that you told me about an acquaintance, the president of the Bavarian Automobile Club, who at that time as a Jew was also sent to Dachau, ^{who} reappeared after a few months and ^{of whom} it was reported among circles of the Automobile Club that he had been normally treated there. Of course, there was some excitement in our circles about the fact of his arrest.

Q. You hadn't heard any news from foreign radio broadcasts?

A. News from foreign radio broadcasts were not easily obtainable. We had rented a house and there were a number of boarders there who could easily denounce us. The whole thing would be punished by a death sentence and it wasn't as simple as that. However, I did listen to foreign broadcasts and tried to form a judgment. I must say that this was not quite so simple. A great number of these foreign broadcasts was biased and false. I must recall now that three times I heard the false report of Goering's death, once from the Strassbourg broadcasting station, and once from a southern English broadcasting station, and I have forgotten the third source. The reports from the foreign broadcasting station were naturally easily recognizable to us as propaganda and the character of propaganda lies in the fact that one mixes true and false reports to such an extent that they are no longer recognizable by the recipient. At any rate these foreign broadcasts were in no way a source of information to us which could have given us a clear picture of the true situation. Naturally, I know today that the persons who had come back from concentration camps had every reason not to say anything, but at that time I didn't know that, and nobody from my proximity had dis-

appeared into a concentration camp, and I am talking about my close proximity. Naturally, among my farther friends some had disappeared. Up until the end of the war I never had occasion to speak to a person who had come back directly from a concentration camp.

Q. Now I come back to your agreement at Adlershof which was the point of departure of everything that followed. You did not reach any final agreement at Adlershof that Hippke wanted to obtain Hitler's permission; was this done? You mentioned this before but please answer it definitely, the question whether a definite agreement was reached there.

A. No, no definite agreement was reached at Adlershof and Ruff already described that in detail. I made the suggestion to him and he wanted to consider it. During our second talk with Romberg and Rascher at Munich he told me that Hippke had given permission. I think that was already said here.

Q. Was this discussion which you mentioned at your institute the same one which the witness Lutz speaks of here?

A. It can only be that conversation because only one such conversation took place in my institute.

Q. The prosecutor has brought out in this discussion something which he says is rather unusual and which Lutz has confirmed, that at the beginning of the discussion you asked him to leave the room and he thinks that is unusual. Please comment on that?

A. The situation at the beginning was the following: I had to acquaint Ruff and Romberg with Rascher and that was the primary purpose of the conversation. Ruff and Romberg had come early and Rascher was not there. Since Ruff and Romberg knew the gentlemen of my institute to a greater or smaller extent, I called Wendt and Lutz into my room to give them an opportunity to converse up to Rascher's arrival. We conversed. There was a lot of professional talk and we waited until Rascher arrived. When Rascher finally came, I told my men that I was going to start the conference and I think it is a question of tact as to how clearly I would have to indicate that to anyone. Lutz

had nothing to do in that conference. I really didn't need the suggestions of my pupil Lutz. I was enough of an expert myself. Ruff and Romberg were also not in need of Lutz's opinions. The experiments were secret in the sense that they were described here by Ruff and Romberg. They were secret because they constitute an assignment from which the technical development of the airplane was recognizable. In other words, it could be recognized from the assignment that we were developing a high altitude airplane. If we had needed Lutz, however, this would have been a reason against his presence. Lutz would then have come under this order of secrecy, but on the other hand it is natural that whoever is not participating in the work would not have been asked to attend any such conference. If Lutz has stated here that he found it peculiar that he had to leave the room, then on the other hand I am of the opinion that this was natural. I may perhaps clarify this difference of the conception of these people if I speak about a small experience which I had during my recent imprisonment at Dachau. Lutz had been at Dachau shortly before me as a prisoner. When I arrived, he had already left. It then became known in Dachau that I had engaged in aviation medicine during the war and the camp physician there asked me in a surprised manner whether I had worked at that large institute under the famous Dr. Lutz. Dr. Schneider was very surprised when I told him that I was the chief of that institute and when I told him that the institute wasn't a large institute but in reality rather small. I quite believe that Lutz was disappointed at not being able to participate in that conference. I must state, however, that his presence was not necessary.

Q But of course, if one was suspicious, one could get the idea that you attempted artificially to keep Lutz away from this conference and to conceal the subject of the discussion from him.

A That the subject of the assignment was secret, was not initiated by me, but that was an order. If I had personally wanted to keep anything secret from Lutz and Wendt, it would have been extremely bad tactics on my part, to have that conference in the institute, and furthermore to ask just these two gentlemen into my room, so that everyone would notice that Ruff and Romberg are there now, and then Rascher also joins them, etc. In this way, they really learned there was a conference. If I had wanted to keep the fact of the conference itself secret, we could have met just as well in Ruff's hotel or in my private apartment or anywhere else and in that case no one in the institute would have known such a conference had taken place. I think one can see from that that I had not the slightest reason to keep the fact of the conference secret at all.

Q Now, about the conversation proper, on that occasion, was your common trip to Dachau agreed upon?

A Yes, this was arranged. Ruff, as well as Dr. Romberg, have already testified about the contents of that conference. They testified that Rascher displayed the letter, that is the letter by Himmler, they testified that the conditions were exactly detailed in that letter, professional criminals who volunteered, rewards, etc. The program was already determined, it needed no further discussion, all we had to do was to explain it to Rascher. And on the other hand, we had arranged with Rascher that we would go to Dachau together and Rascher on his part arranged that trip via the Munich Reichsleitung SS.

Q How often were you in Dachau altogether?

A I have been in Dachau once, I have already discussed that trip.

Q What happened?

A Ruff and Romberg have spoken about that also in detail. At first we went to the camp commander, we discussed the conditions with the camp commander and I may perhaps supplement the testimony of Ruff and

Romberg to the effect that Schnitzler brought an order by Himmler to the camp commander, saying what kind of experimental subjects were to be used, in other words the contents of the letter Rascher had shown to us. I want to emphasize that, because, that way we were certain that the camp commander would have to comply with this order by Himmler therefore, we were not at all dependant on the "yes" or "no" of the camp commander, we regarded it as a matter of errors that the camp commander had with an order by Himmler. It was a matter of course that we assumed that he would in effect comply with this strict and clear order.

Q Then, why did you personally go to Dachau, would it not have been sufficient, if Ruff and Romberg had gone alone, to settle the technical details?

A This trip merely took place in order to discuss the technical preparations with the camp commander, to inform ourselves about technical details, about the current, about the entrance of the camp, the low chamber transport, etc. From that point of view, my presence would not have been necessary, because Ruff and Romberg, who knew all about that chamber, could have done that themselves. I went along because I attached value to being present during that conference with the camp commander and because I wanted to use the opportunity of obtaining some impression of a concentration camp, since I knew so little about them.

Q Did you have an opportunity to talk to prisoners there?

A No, that was forbidden.

Q And your general impression?

A My general impression was roughly the same as Ruff's and we discussed it later. The impression was absolutely favorable, we saw a tidy clean camp, the barracks were not overcrowded, only two beds were located above one another and sometimes there was only one level of beds. The hospital was already described in detail by Ruff. It was against all expectations a clean hospital, well equipped with all medical apparatus, patients were actually there with relatively slight illnesses,

so that we had to assume that not only people in their death throngs were actually brought to the hospital, but people were there who were treated because of little things such as bronchitis or similar matters. The fever charts were kept in a proper manner and we as medical men were naturally in a position to decide very quickly how well these medical matters were handled. I must say that I was surprised about the good impression I had of the hospital.

Q And what happened then; when did the low pressure chamber come?

A I cannot recall the date exactly, I think the low pressure chamber arrived at the beginning of February, although I cannot recall the exact date. Ruff already described that, he said that the chamber had been handed over to me. In other words, the keys and the documents of the chamber were given to me. The drivers arrived that night from Berlin and the next day the SS drivers came along to fetch the chamber. I don't believe I can add anything new to that question.

Q Now, Professor, the question which you have to answer in considerable detail; how was the responsibility distributed between yourself and Ruff at the time?

A I believe that I already said something about that. There was a clear arrangement existing between Ruff and myself that this was to be a joint undertaking, it was clear that Ruff exercised supervision over Romberg and I exercised supervision over Rascher.

Q In several preliminary interrogations, you pointed out that it was your duty to supervise Rascher; will you please tell the Tribunal what you did to fulfill this obligation?

Q My obligation to supervise Rascher was very clear. I was his disciplinary superior and I was naturally responsible for the scientific program to which I assigned him. The course of things was that Rascher, after my conversation at the institute with Ruff and Romberg and after our trip together to Dachau, did not show up again and I did not see him. Rascher was only detailed to me on paper, in fact, he was still active at Schongau in his old office and since I really did

not need him, I did not urge him to come. When, however, the arrangements had been made with Ruff and Romberg and when it was reported to me that Rascher was in Munich without reporting at my institute, I had a letter written to him by Wendt, written in a strictly official tone, telling him to report at my place twice a week and I designated two days, Tuesday and Friday. As a result of this letter, Rascher came to me and I asked him what the matter was and why he didn't show up. This first conversation took place approximately in the middle of February, 1942 and Rascher told me that the experiments had not even started yet at Dachau and that therefore he had nothing to report to me. He said he was still at Schongau; I told him that there was no change and that he had to report to me twice a week. On the second occasion, Berlin had telephoned me, it was in the meantime Anthony asking what the situation was as to Rascher, he said that Rascher wanted to be detailed to Dachau and asked, how the Dachau experiments were progressing I told Anthony that I could tell him nothing about the matter because nothing had been reported to me. When Rascher came the second time. I told him that this telephone call came through from Berlin and that I wanted to have some clarification how things stood and with Dachau. He did not want to report anything to me even at the second conversation. I told him on the occasion of that second talk that I was going to Berlin and I wanted a clear decision whether or not he would report to me. I told him that I would discuss this point with Hippke, these conversations took place once every half week, because I told him to report to me every Tuesday and Friday. On the occasion of the third talk, I expected a sharp argument and I therefore asked Wendt to come into the room. Before that, I confronted Rascher with the alternative either to report to me or he would have to leave the institute, But this third talk was very brief, Rascher showed me a telegram from Himmler, this telegram read: "Experiments are to be kept secret from everyone."

I said that this made the situation very clear. I told him he could no longer stay at my institute. Rascher said goodbye. I composed a letter together with Wendt, signed that letter and Wendt sent that letter the same day to the Air Gau. I wanted Rascher relieved, and that relief came back within a few days as was customary. We received the report that Rascher's assignment had ended. Rascher automatically thereby came back to his old agency, which was the Anti Aircraft Artillery School No. 4 at Schongau, that is the Air Gau Medical Department No. 7.

Q Would it not have been to your advantage, Professor, to go to Dachau yourself, when Rascher did not report to you on the first and second occasion? You might have been able to get information from the trip -- on the spot?

A I could not go to Dachau without having first received an express permission for that. I could only receive that permission through Rascher.

Q Professor, the Tribunal would like to have the dates set as accurately as possible; can you tell me when Rascher was relieved. You gave the time in general, but perhaps you can make it more exact?

A I can reconstruct that approximately on the basis of the documents. The telegram which Rascher showed me, must have been the reply telegram to the teletype which was mentioned by Frau Nini Rascher in her letter. May I, perhaps, indicate the number -- this is document No. 263 PS, Prosecution Exhibit 47.

Q I will come to that afterwards. Now, another question to determine this date. You are certain then that Rascher was relieved in February or at the beginning of March?

A Whether this happened in February, I cannot say, but at the latest, it must have happened during the first days of March. It is, however, evident from the further correspondence; that on the 16th of March, Rascher had already been detailed to another agency.

Q Then, did you inform the Medical Inspectorate that Rascher

had left?

A After Rascher had shown me the telegram, I went to Berlin and wanted to speak to Hippke; Hippke was on an official trip. I telephoned Antony. He told me that Hippke was not there. Since I knew Antony rather well, we arranged to have supper together. Antony came to my hotel and we discussed the entire matter together. I reported to Antony that Rascher was no longer at my agency. I told him about the matter with the telegram and I also told him about something I had recently learned, namely, that Rascher had brought his father into the concentration camp. Antony reserved his decision. He said, I must get Rascher to Dachau in some other way. At any rate, Antony did not tell me definitely what he intended to do and how he was going to do it.

Q Please describe to the Tribunal the further developments, for example, with Rascher leaving your Aviation Medical Institute in Munich, did your contact with him cease then?

A Rascher's assignment finished with that, because of his relief, every connection with my institute had ended. Rascher no longer contacted us personally. And, my only subsequent connections with him was the fact that I saw him occasionally in Munich, which was really unavoidable. I saw him during the Nurnberg Congress. These were accidental meetings. We behaved correctly toward one another; we greeted, but there was no conversation.

Q After he left you, you did not talk to him any more about the visit to Dachau?

A No, Rascher did not even report to me, when I asked him to do that officially. Still more, he did not tell me anything, when I was no longer his superior, and when I had no right at all to know anything about it.

Q Did you not have other reasons to remove Rascher from your office. It was apparently a personality who was not very popular.

A Rascher was not unpopular, because he was not there. If

Lutz says here, he did not like him from the very beginning, I can not judge that; but, this did not become externally obvious because Rascher did not stay with us at all; and, then, Wendt says he hardly knew him, and my own attitude toward him I have already defined. At the end of February 1942, that was the time, I found out that Rascher had brought his father into the concentration camp; from that moment on, I rejected his personality very firmly. This, of course, had no influence in our official relationship. This relationship was very clear and later on forcibly interrupted when Rascher showed me that telegram.

Q Professor, please tell us, as accurately as you can, when you learned that Rascher sent his father to a concentration camp?

A That was at the end of February or the first of March.

Q After the talk at Adlershof?

A After the conversation at Adlershof, of course. If I had known that already at Adlershof, I would have thought carefully, whether I was going to offer Rascher the cooperation of Ruff.

Q Now, one question. Would it not have been right for you to report these facts to Hippke, that Rascher had sent his father to a concentration camp, in order to eliminate Rascher completely?

A I told Antony. Antony, at that time, was of the opinion that one could do little with that officially. Certainly, there were a number of people at that time who were ready to conceive of that attitude on Rascher's part as a Spartan kind of heroism. I, on my part, did not know what the closer connections were; I did not know for instance, whether Rascher's father had provoked him in any unusual manner. I had no information about all that. Anyway, this information was not suitable to be used officially.

Q Do you believe that with the elimination of Rascher, and your information given to Antony and Ruff, your responsibilities were finished in every respect.

A There is no doubt about the fact that with the elimination of Rascher every responsibility had ceased for me. I had no possibility

of influencing Rascher any further. I could not issue any orders to him, and I did not know what he was doing; he did not report to me. And, it was quite clear that my official responsibility of him had stopped.

Q Now, in private, at least, your statement agrees with some documents which the Prosecution has submitted. I should like to ask you, however, to clear up a few contradictions. I shall have these documents handed to you so that you will be able to comment on them. There is first of all the letter from Dr. Rascher, signed by Frau Nini Rascher, of 24 February 1942.

DR. WILLE: Mr. President, this letter is in the Prosecution document book 2 on page 56 in the English text.

(Continuing question.) This is document No. 263 of the Prosecution, Exhibit 47. This is, in fact a file note of SS Obersturmbannführer Schnitzler of the 28th of March 1942. This document is also in document book 2 of the Prosecution, page 73 of the English; this is document NO. 264, Prosecution Exhibit 60.

The third letter in the same book is signed by Wolff, the head of the Personnel Staff. It is addressed to Hippke. This is Document NO-318, Exhibit 57, Document Book 2 of the prosecution, page 70 of the English text. Now, will you please look at the first document, the letter of Mrs. Nini Rascher and will you please explain it?

A Mrs. Rascher writes in the second paragraph, and I quote, "On the 24th of June, the Reichsfuehrer SS authorized the experiments, at that time for Dr. Rascher, Dr. Kottenhoff, and Dr. Woltz. Dr. Kottenhoff was appointed Air Gau Physician for Rumania in August and thereby was excluded from the group." End of quote. Here, at first, I have to correct that Kottenhoff was not appointed Air Gau Physician for Rumania in August, but as, he says himself on the 1st of November, 1941. That Himmler authorized the experiment I already stated and I also stated that Rascher got this authorization without first informing us. He neither informed Kottenhoff nor myself. We only found out about that subsequently. Frau Rascher goes on to say that nothing was done up to the time to support Kottenhoff. That is correct and I already stated that. Frau Rascher goes on to say that Dr. Woltz was to start the technical execution of the experiments. This is rather a quick remark, because I certainly wasn't the one to carry out technical preparations, but, rather, Rascher would have to do the work and I was only to supervise it. She goes on to say, "Since Woltz feared interference by General Oberstabsarzt Hippke" end of quote, and she goes on again, "As he was afraid of obstacles on the part of the Air Force Medical Inspector, Generaloberstabsarzt Dr. Hippke, who described experiments of this kind as amoral, Woltz continued postponing the beginning of the experiments, although he was thoroughly acquainted with their importance."

I already said that I feared no obstacles on the part of Dr. Hippke, but I was in complete agreement with him. We wanted to carry out important experiments but wanted not to tolerate unimportant experiments as they were suggested by Rascher. I told that to Rascher at that time and I said that Hippke would certainly not approve of his experiments. Therefore, the description as Frau Rascher was giving it must be incorrect. She goes on to say, "In December of 1941 he - that is Weltz - asked the Board of Directors of the Air Force Research Institute Berlin-Adlershof, if the bosses there, Dr. Ruff and Dr. Romberg could undertake the experiments with Dr. Rascher. Both of them immediately accepted, delivered the low-pressure chamber and came here." That again is obviously a false statement. Frau Rascher is trying to make it appear as if the experiments which I discussed with Ruff and Romberg were the same as the experiments which Rascher had suggested to me before. In reality these were two different kinds of experiments. What Rascher suggested to me at first was an ascent with a particularly slow speed; by a slow ascent lasting for hours the compatibility of the persons for high altitude was to be tested. It has been explained in detail what the Ruff program was. It was to the contrary an experimental arrangement where especially quick changes of pressure took place. It was entirely different from what Rascher had suggested to me. One couldn't at all confuse these two series of experiments and Rascher must have been very clear in his mind about that. On the other hand, Rascher was in a dilemma. In his letter dated the 15th of May he had written to Himmler that urgent experiments were to be carried out and asked him at that time for professional criminals. Rascher or Mrs. Rascher can not suddenly say

that the experiments which were considered at that time to be so urgent, are no longer urgent today, but on the other hand we wanted to carry out quite a different experimental program, namely the program of Ruff and Romberg. Frau Rascher moved by her dilemma is confusing these two series of experiments, although they really can not be confused at all.

Frau Rascher goes on to say, and I quote, "It was clearly determined that the experiments were only to be authorized in collaboration with Dr. Rascher." End of quote. The permission to work at Dachau, naturally, depended upon the person of Rascher. We never considered carrying out the experiments without Rascher, because that would have been impossible. None of us had access to Dachau. Neither Ruff nor Romberg, nor I, if Rascher didn't care to agree. If Mrs. Rascher -

JUDGE SEBRING: On several occasions you have reiterated that the possibility of carrying out experiments at Dachau depended entirely upon Dr. Rascher. Isn't that the effect of what you have said from time to time?

WITNESS: Yes.

JUDGE SEBRING: What do you mean by that? I don't quite understand. In what way was it solely dependent upon Rascher, and apparently if it was solely dependent upon Rascher, from what you say you knew that from the outset. Will you please explain what you mean by that?

WITNESS: Rascher could refuse us ingress to Dachau at any time. We could only enter Dachau if Rascher had obtained permission before hand, as it was done in the case of our journey to Dachau, or, if, as it was the case with Romberg, Romberg received a permanent pass. Rascher, however, felt himself to be so powerful that, as Romberg

has already said yesterday, he could threaten Romberg with having this permanent pass made invalid for the period of time he was in the camp. This would have meant that Romberg couldn't have gotten out of the concentration camp. On the other hand, we could never prevent Rascher from going to Dachau. When I was Rascher's superior, I also didn't have the possibility to prohibit Rascher's going to Dachau apart from his hours of official duty. But if Rascher had told me that "during my free time, I'm going to Dachau," I certainly couldn't have prevented his doing so.

JUDGE SEBRING: When did you first learn that he had this tremendous authority to gain ingress and egress into Dachau that you did not have? Did you know that at the time that you originally talked about this proposition and the collaboration with Ruff? Did you know then that Rascher was such a powerful individual so far as Dachau was concerned?

WITNESS: That Rascher exercised a great influence on Himmler we certainly knew, because he had received the authority to carry out the experiments. What the real connections were only became clear to us or, at least, became clear to me, when I went to Dachau for the first and only time. I thought that the whole thing was much easier and entailed much less red tape. At any rate, I thought that there was a much closer collaboration between the various branches of the Armed Forces and I didn't think that the concentration camp and what was connected with it would be such an isolated complex into which one could only penetrate when you had received permission which was bureaucratically controlled. I didn't know that before my visit to Dachau.

JUDGE SEBRING: Well, then you and Ruff collaborated in

the high altitude experiments. Rascher was your subordinate. Romberg was Ruff's subordinate. Yet, after Rascher had gone to Dachau you, his superior, could not go there, and in Dachau, Ruff, who was Romberg's superior, could not go there and Romberg, who was Ruff's subordinate, could stay there only at the will of Rascher? Is that what you mean to say?

WITNESS: I could assume after the camp commander had received the order from Himmler that we were to carry out these experiments and certainly I couldn't assume that Himmler would suddenly recall the permission that was given me originally. Himmler's telegram constituted the opposite to what he had said before, for Rascher says that in a letter by Himmler of the 24th of July he had received permission to carry out these experiments together with Kottenhoff.

This certainly had been arranged with the camp commander, and this entire situation had been overthrown by this telegram of Himmler which came as a complete surprise to me. It was clear to me that I could not get into Dachau as a visitor, but I could expect, on the basis of Himmler's order, that whenever the experiments would necessitate it I could go to Dachau at any time.

Perhaps I may continue to discuss the letter.

Frau Rascher goes on to say:

"Weltz gave the assurance that he would take care of the corresponding authorization of Dr. Rascher. He was only able, however, to obtain one assignment, which would enable Rascher to carry out the preparatory work at Dachau, and stated in reply to a question on the subject by Dr. Rascher, 'The authorization can be extended at any time.' "

I don't know what Frau Rascher means by these assignment difficulties. Rascher was always talking about these assignment difficulties in detail but such difficulties didn't really exist. I would have given him the order to work at Dachau to report to me at regular intervals and from that point of view this assignment was perfectly in order because, as far as I am concerned the assignment was unlimited power. Whether Mrs. Rascher here means that he only had to report to me twice a week, and she thought this meant interruption in his assignment, I don't know; but at any rate, methinks from this entire statement that she tries to make it appear that I wanted to push out Rascher... and I really think an intrigue is going on here with the intention of eliminating me. He presents the matter to Himmler in such a way that I wanted to eliminate him. In reality, however, it was his intention to push me out of the way, and he actually succeeded in doing that through that telegram.

and now I come back to the telegram. I find it here on page 2

of the letter: "As a result thereof Rascher conferred with Obersturm-
fuhrer Schnitzler on the 19th (Teletype to Reich Administration SS)."
I think that the telegram that was shown to me was the reply to the
teletype which is mentioned in the letter. Frau Rascher goes on to
write:

"Experiments of Romberg-Rascher began at Dachau, a clear pro-
nouncement by both, that Weltz was not needed any more, Romberg was
also surprised that Rascher was now to be chucked overboard in spite
of his firm agreements. Obersturmfuhrer Schnitzler has for the time
being stopped the continuation of the experiments without Rascher
until the decision of the Reichsfuhrer has been obtained." End of quote.

I never learned anything about the stoppage of the experiments.
Rascher didn't tell me that. These experiments were stopped behind my
back. The fact that they were stopped I only learned here from the
document. "Obersturmfuhrer Schnitzler", Frau Rascher goes on to
write, "has been asked by Rascher to obtain an immediate authorization
either from the Chief of Staff IJN 14, or Staff Medical Officer Dr.
Schmidt, likewise IJN 14."

I may point out in this connection that the very same Mrs Rascher
who wrote at the beginning of the letter, that Hippke was rejecting
the experiments and considering them to be immoral, writes here that
she is turning to IJN 14-- which is again Hippke's agency, trying
to get immediate authorization from Hippke. Obersturmfuhrer
Schnitzler no doubt telephoned Berlin, and this was the occasion
that Antony on his part telephoned me, as I described it before.

At the end of the letter, at the end - Rascher says that he
wanted to participate under all conditions as a member of the
"Ahnenerbe". And obtain an immediate assignment from Hippke. Belong-
ing to this document is File Note Schnitzler, Document No. 264,
Exhibit 73. This bears the date of 28th of April 1942. I am sure

that this date is wrong. I think it should be 28 February 1942. I think that this is so for two reasons: At first Mrs. Rascher writes here in the third paragraph:

"The assignment of Dr. Rascher must immediately be changed to 'assignment to Aviation Test Institute Berlin - Adlershof, Aussonstelle Dachau' (Branch Office Dachau) - not Institute Woltz, because Woltz, as he stated, intends to cancel the assignment immediately, if he is not to participate in it."

Rascher on the 16th of March 1942 had been detailed to the Branch Office Dachau. This can be seen from Document No. 318, Prosecution Exhibit No 47. In this letter it reads very clearly that Rascher, from the 16th of March to the 16th of April had been detailed to the Branch Office Dachau. Whether this a Branch Office Dachau ever existed, I don't want to discuss.... I don't think it did existed in reality. But no doubt it becomes apparent from this letter that on the 16th of March Rascher was no longer at my office. Therefore, Frau Rascher cannot possibly ask, on the 28th of April, that a change should be made which has already taken place one month earlier. This is the first reason why I believe this date should read the 28th of February. The second reason is that in this letter mention is made that I was going to Berlin and was to speak to Hipke. I went to Berlin, naturally, immediately after Rascher had given me the telegram. And I certainly didn't wait for two months. In addition, from this file note, Document No. 264, the following remark has to be made: "Oberstabsarzt Dr. Woltz still insists in taking part in these experiments and be fully responsible for them. If not, the assignment of Dr. Rascher to the Institute Woltz must be changed." This refers quite clearly to the second talk between Rascher and myself during which I threatened him to have him removed from my Institute if he didn't report to me.

and the next sentence: "Weltz personally does not care about the experiments." "Not" is underlined. From that sentence it can be seen that I didn't want to participate in these experiments myself but that I only wanted to exercise supervision over Rascher. I am saying that because is accusing me of having pushed myself prompted by scientific ambition, that I wanted to remove him. The very same Mrs. Rascher who made this assertion says here, using her own words, that I was not personally interested in these experiments. The next thing refers to the conversation with Antony about which I already told. If I may shortly point to the last paragraph:

"Dr. Weltz confidentially informed Dr. Rascher that there is great mistrust against him in the RLM because of the experiments; -SS membership- there is also animosity in the Air Gau command Munich for this reason."

I think that this sentence refers to my having told Rascher on various occasions that he should not always mention Himmler. If something didn't run as quickly or as smoothly as Rascher wanted it to run he always mentioned Himmler, he always said, "I have to report that to Himmler". I replied to that that he would hardly make friends either with the medical inspectorate or with the Air Gau if he continuously referred to Himmler in this manner.

THE PRESIDENT: The Tribunal will now be in recess until 0930 o'clock to-morrow.

(The Tribunal adjourned until 0930 hours 7 May 1947.)

Official Transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 7 May 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are all present in court.

THE MARSHAL: May it please your Honor, all defendants are present in the court.

THE PRESIDENT: The Secretary-General will note for the record the presence of all the defendants in court.

Counsel may proceed.

DR. GEORG WELTZ - Resumed

DIRECT EXAMINATION (Continued)

BY DR. WILLE (Counsel for the Defendant Weltz):

Q. May I remind you, witness, that you are still under oath. Yesterday, we finished when I asked you about the three documents. May I now ask you to tell me what you maintain as a result of those three documents?

A. These are NO 263, NO 264 and NO 318. These documents without doubt belong together and deal with the same matters. The letter of Mrs. Rascher, Document 263, is a rather confusing mixture of half-true and untrue statements, so that at first it was not easy -- even for me -- to recognize the real purpose of this letter. I believe, however, that I can now say that the assertion that I wanted to depose Rascher and the other, the assertion that there were difficulties with the assignment, that

these two statements are not correct and were merely made for a certain purpose. The purpose was to eliminate me from control over Rascher. In order to understand why that seemed desirable to Rascher, perhaps I may briefly sum up the situation in which Rascher was when this letter was written by Mrs. Nini Rascher. Rascher, against my will, without my assistance, came to my office in November 1941. He was in Schongau at that time and I did not urge that he be assigned to my office. I did not need him. Rascher said that he still had things to do at Schongau and I was satisfied with that. But when the agreement had been reached with Ruff and Romberg when the work was to start in Dachau, Rascher still did not come to my office but I learned that he was in Munich. I have already said that. This was the occasion for me to write a letter to him, an official letter, which I still remember very well. This letter was in a rather military form. It said about as follows: You are to report to me; twice a week at ten in the morning on Tuesday and Friday. Signed Weltz.

The tone of this letter was unusual at my office. We were not very military in our behavior. I generally wore civilian clothes at the institute and this letter to Rascher forced me to go to the institute in uniform twice a week. That is why I remember it. After this letter Rascher could have no doubt that I emphasized my relationship of Military superiority towards him, and that I did not desire to grant him the special position which he claimed as a friend of Himmler. Rascher's conduct toward his superiors has been described here repeatedly. I remember his meeting with Grawitz for instance. Rascher formally submitted this order, he actually appeared three times. There is no doubt that

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the form in which I managed the relationship of military subordination was unpleasant to him. I treated him like a subordinate. Medically, I treated him as an assistant who was to follow instructions. And I have no doubt that this was particularly unpleasant to him and that these relationships finally led to the conflict, the core of which is Mrs. Rascher's letter of the 24th of February 1942.

As I have said, Rascher then showed me the telegram which he had received from Himmler. The form in which I was eliminated by this telegram was so unusual and was such a violation of good military form, such as we were used to, that I was very indignant about it and of course, for my part, drew the obvious conclusions from it. I have already said that I told Rascher that he could not stay in my office, then I dictated a letter to Waltz demanding his dismissal and then he was actually dismissed. My relationship with Rascher was thereby finally finished and I, for my part, wanted to have nothing more to do with Rascher in any form if possible and I also wanted not to have any more contact with any SS agency, because it was extremely inconsiderate of Himmler to have my own subordinate, without any explanation, give me a telegram eliminating me from investigations in which I declared myself willing to participate, merely in order to permit an order of Himmler to be carried out.

Q May I take it from your description that Rascher was relieved of his work in your institute by your request before you heard anything of the Dachau experiments; is that correct?

A Yes, referring to this telegram Rascher had refused to give me any report.

Q A few more questions on the altitude problems. After Rascher's resignation, did you talk to Ruff or Romberg on the Dachau experiments?

A I did not talk about the experiments either with Ruff or with Romberg, because I knew that the secrecy order was in effect and of course we had to respect this order.

Q Did you receive any more communications about the experiments?

A No, I did not receive any communications.

Q So, therefore, you did not know the final report of Ruff, Rascher and Romberg?

A No, I did not know about it.

Q So therefore you did not know of the fatalities that happened at Dachau?

A No, I did not hear of any of them.

Q Now what is your position to what the Prosecution charges that you succeeded at the time in overcoming the resistance put up by the Medical Inspectorate against the Dachau experiments?

A This charge does not affect me. I exerted no influence on Hippke. After this talk at the Preysing Palais where we had both expressed our basic attitude, I did not talk to Hippke about it at all. Hippke had given permission for the experiments, according to Ruff's report. I already said that I deliberately avoided exerting any influence on Hippke, because Hippke was to reach his decision independently and since I not knowing the construction program of the Luftwaffe, could not decide how urgent the experiments were and of course Hippke had more insight in the matter. I in no way tried to influence Hippke's attitude.

Q Now, about the freezing and cold experiments; what were your relations toward the cold experiments at Dachau?

A I had no relations at all to the cold experiments at Dachau.

Q But you yourself worked a great deal in the entire field of the cold program; would you like to tell us how you were led to this work and what your work consisted of in these problems?

A My attention was called to the cold problem in the winter of 1940-1941 by a report which I had been sent by the Airfleet physician 3. This report summed up a number of experiences of aviators who had fallen into the channel during that winter, some had been rescued successfully, some had been rescued after they had died and some had died after they had been rescued. There were in particular very moving experiences which these men had gone through. From the medical point of view, I realized how little we knew about death from freezing. In particular, there was sometimes a mysterious death after the people had been rescued, after they were already in safety in the hospital. They died and very little was known about the cause of their death. The doctrine prevailed at that time that such persons who

had been exposed to cold could be rewarmed only very carefully. We thought that perhaps they had been rewarmed too quickly. It was not clear what role alcohol was to play in these rescues, should the people be given alcohol or should they not be given alcohol. The basic questions were astonishingly unclear. It was not clarified whether the person should keep still in the water to save his strength or whether he should move in order to create warmth. It was not clear whether he should keep his clothes on, his shoes and gloves, or whether he should take his clothing off -- in order to move more easily. All these questions had not been clarified. Thereupon, I received permission to visit all aviators, who had fallen into the sea and been rescued -- most of them had gone back to their units-- and question them about their experiences. I also visited the sea rescue stations along the channel and the French coast. As I said yesterday, I also visited the military hospitals in Cherbourg and Boulogne where sometimes some such rescued people were treated. This work was carried out partly in the winter of 1940 and 1941, partly when I was in France for a longer period in about August of 1941. Then, simply by questioning these rescued persons we learned a number of important facts and were able to draw up a memorandum containing certain instructions. This formed the first basis for instructions on conduct during water landings.

Q This work you are talking about, was that connected in any way with the experiments at Dachau?

A No, there was no connection as I have already said. This work was more or less completed in the summer of 1941 and there was no question of any cold experiments in Dachau yet.

Q Now, the Prosecution has submitted Document No. 343A-P8, Prosecution Exhibit 62, in order to prove that you had been detailed for the freezing experiments in Dachau. This is the well known "Wolff" letter. This Document is in the Prosecution Book No. 2 on page 77 of the English text. You Dr. Woltz, among others are mentioned as being in charge to work on sea rescue problems; please explain this

to us.

A I never had any knowledge of this letter. I learned of it only here. I was not asked what my opinion was on such an assignment and I never received any order, which would have brought about the execution of this plan. If the suggestion of 20 May, 1942, which Milch makes here was put into action, I would have had to be given an order to that effect. I never received any such order and I never learned anything of this letter.

Q Well, do you know perhaps how this letter was drawn up and who were proposed for these experiments?

A How the letter was drawn up, I do not know. These things happened in Berlin and we in Munich knew nothing about them. I only know what Hippke himself said in his testimony in the Milch trial, otherwise I knew nothing of it.

DR. WILLE: May it please the Court, the records of Milch's statement, that is to say, Hippke's testimony in the Milch trial, I will submit to the Court as soon as it has been certified by the Secretary General. As I mentioned yesterday, I've asked for this to be done. Hippke says in the record that he had earmarked Woltz for these Dachau experiments because he had made animal experiments about cold problems before. When he had a conversation with Rascher about this, he remembered that Woltz was a man who was purely interested in the theoretical aspect and was not really suitable for this task. He therefore suggested Prof. Holzlochner instead of Woltz because he had already worked practically on these problems. Thereupon, Holzlochner was sent to Dachau officially.

Q Dr. Woltz, nevertheless, I should like to ask you to comment on another two documents which I shall now hand to you. This first document, NO-283, Exhibit Number 82, from the Prosecution Book III, Page 12 of the English text, is the report by Rascher to the Reichsfuehrer SS.

A Rascher reports here about a talk he had with Hippke; and he says, "At the same time he asked for permission to carry out the cold and water experiments in Dachau and asked that the following be engaged in these experiments: Prof. Dr. Jarisch, of the University of Innsbruck, Prof. Dr. Holzlochner, of Kiel, and the Luftwaffe pathologist Prof. Dr. Singer, of Schwabing Hospital." On the 15th of June 1942 the plan that I was to carry out these experiments had already been dropped; and other names were mentioned.

The next letter, NO-286, Exhibit 88, was addressed to the Reichsfuehrer SS. It comes from L. I. 14, and it says that Holzlochner has received a research assignment on the effect of freezing of warm-blooded subjects; that to carry out these investigations a research group "Hardships at Sea" is to be set up; that this group consists of Prof. Holzlochner, Dr. Rascher, and Dr. Finke; and that it is intended to dissolve the research group at the latest by 15 October 1942.

Here again the experiments are reported on, and my name is not mentioned. I believe that the documents submitted by the prosecution show that I had nothing to do with the cold experiments in Dachau.

Q I remember here that you mentioned before to me that Rascher proposed to you earlier that cold experiments be carried out in Dachau, that is to say, after you had turned down his altitude experiments with a slow ascent. Please explain this to us.

A That is true. I said that yesterday. When I rejected Rascher's first suggestion, high altitude experiments with slow ascent, he came to me with a new suggestion. That was about November 1941. This new suggestion was that cold experiments should be carried out in Dachau.

Q Now, why did you decline to take part in the freezing experiments whereas you approved the low pressure experiments of Ruff?

A First of all there would not have been a possibility of carrying out these cold experiments in Dachau under good conditions. But these experiments did not seem to me to be necessary at that time. At least they seemed too early. At our institute animal experiments were still going on; and this series of animal experiments which we had begun was very successful at that time. So that there was no need for us to perform human experiments. We were making good progress with our animal experiments; and it was just the other way around in this field which we were working on. In the field of basic research it is much simpler and more comfortable, realizing our other considerations, to work with small animals than to work with human beings. We had no reason to want to carry out human experiments.

Q As far as I know, you carried out cold experiments on pigs. Perhaps you can comment on those.

A Later, in 1943, because of the air war, I moved the institute to Freysing to an estate eight kilometers away from Freysing. The transfer was effected with consideration of the point of view that pigs were bred there and that in this way we would be able to get

pigs as experimental animals, which of course were not available otherwise during wartime. The pig was desirable as an experimental animal because experiments with small animals, of course, are limited wherever dimensions, weight, and fur are important. In the case of the pig one comes much closer to the conditions of the human being. The pig is not only relatively close to the human metabolism; it has also dimensions corresponding to those of human beings; and it does not have a great deal of fur so that in the pig we saw an ideal experimental animal as a substitute for a human being for experiments which were relatively close to reality; and we succeeded in finding a series of facts we believed were important.

Q So do I understand you correctly if I take it that you made experiments on pigs in order not to have to perform experiments on human beings, and also because your experiments on pigs were so satisfactory that you had no need to use human beings? Is that how I should understand you?

A Yes.

Q When did you hear for the first time that cold experiments were being carried out at Dachau?

A In the summer of 1942 a few months before the Nurnberg conference, two delegates turned up sent by Holzloehner who asked my associate Weltz to carry out oxygen tests with certain apparatus which we had at the institute. Weltz asked the men why they needed it. They said that they were not allowed to give any details about the experiments. Weltz refused to determine the oxygen content, he informed me; and I approved of his refusal. Shortly afterwards, the two men came back and asked that we send the machine, the chorolometer, to Dachau, loaning it to them. Weltz brought the two men in to my office to see me and said that we would not give up the machine and that he did not want to have anything to do with Dachau. I was present. I approved what he said. It was absolutely in accord with my feelings and on my orders that he refused to give up this machine. I did not want to have

anything more to do with Rascher under any conditions.

Q Will you please give us the date as precisely as possible as to when these people from Holzlochner turned up to see you?

A I cannot say anything more definite than that it must have been in the summer of 1942. I cannot give the date any more accurately.

Q This apparatus of which you talk, was that perhaps the same apparatus which Rascher mentioned in his letter to Himmler of 9 October 1942? I am handing you this letter now. It is in Document Book of the prosecution II, Page 108 of the English version, and Document NO-1610-PS of the prosecution and Exhibit Number 73. Please comment on this letter.

A Rascher writes, "The Weltz Institute does not want to give me apparatus simply because they are afraid that I will have good results on human experiments more quickly than is possible in years of animal experiments. Weltz, instead of now admitting that we reached our goal more quickly in the freezing problems through experiments on human beings and need the apparatus, makes the excuse that at the present time he is conducting freezing experiments on shaved cats and needs the apparatus for this purpose." This is the machine of which I spoke. I should like to refer to this enormous impudence with which Rascher simply demands from me that I must give him a machine which belongs to my institute, a machine on which he has not the slightest claim; and he said that I made the excuse that I needed it myself. He expects that I should apologize to him for needing my own machine and for not being willing to give it to him. I just wanted to mention that as an illustration of Rascher's attitude.

Then he writes, "Through the OKW Weltz is trying to get captured Russians as subjects for his experiments. Human experiments conducted outside of camp do not seem expedient to me." How Rascher comes to make this assertion that we were trying to get captured Russians through the OKW I don't know. We never even considered that. I don't

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know how Rascher imagined that; how he thought that we were opening a private concentration camp. I can't understand what this suggestion means. We never even thought of it. I said that just about this time we were having a great deal of success with our animal experiments and that later we went on and experimented on pigs.

Q Did Rascher make more lies and untruthful statements like this?

A Yes, he made very many untrue statements, so far as I can check here. I remember that he told Rosenberg as well as Sievers, that I was a person of Catholic orientation. I never belonged to the Catholic Church, and I never participated in Catholic politics. That was also an untruth which he had purely invented. I was on very distant terms with Rascher and certainly never talked to him on ideology. This remark which Rascher made to Rosenberg, as well as Sievers about the "black robed brother" well, that is pure invention.

Q Coming back to Holzlocher, do you not think it was dangerous for you not to fulfill Rascher's wishes. Therefore, you agree with the defendant Sievers, inasmuch as he said on cross examination that you were one of the traitors who declined to make experiments on human beings, that you preferred to have German soldiers die instead of carrying out experiments?

May it please the Court, this passage was taken from the letter of 24 October 1942, which has been referred to before. This letter may coincide so far as the date is concerned with the period of time with which we are concerned here. It is Document NO-1609-PS, Exhibit No. 92, from Document Book 3 of the Prosecution, page 77 of the English text.

Professor Woltz, do you still remember my question I asked you? Whether it was dangerous for you not to comply with Rascher's wishes?

A According to what I see here in the correspondence I would have to assume so. However, at the time I did not know it. I did not know how dangerous Rascher was.

I did not imagine then of course, that he would report every detail to Himmler personally. On the contrary I thought that the relations with Himmler, which he was always talking about was just boasting, but I see now from the correspondence that he actually had a very strong influence, and that he informed Himmler about every detail. I believe that Rascher would have been just the man to use that authority which he had been given in this Document 1609-PS; similarly he is supposed to have done something against his father, but I don't know the details about that.

Q Apart from the fact that Holzlochner's delegates came to see you in order to collect the Calorimeter from you, afterwards, were you given any other indication of conducting the cold experiments at Dachau?

A Certainly before the Nurnberg conference, a week or two before, Holzlochner came to see me at the Institute, and suggested that we should compare the results. We both knew that there were to be lectures at Nurnberg, because we had received the agenda for the Nurnberg conference in the meantime. Then Holzlochner came to me and suggested we should compare our experiments, should discuss them with each other, and should clear up any differences beforehand, so that we would not contradict each other during the conference. Such discussions between two experts is in general quite useful, and it is quite understandable that Holzlochner made this suggestion. Then I said to Holzlochner that under no conditions would I have anything more to do with Rascher and Dachau, after the experience I had had. I told Holzlochner exactly what had happened to me in connection with Rascher, I refused to tell Holzlochner what success I had had, and

I refused to listen to what he had discovered. Consequently I learned of Holzlochner results only what he reported at the Nurnberg conference.

Q Rascher said you had done all of this because of scientific jealousy?

A Well, that was a matter of course. Rascher can not say that I repudiated him for reasons of character. He has to give a different reason, but the suggestion which Holzlochner made would have been to my advantage, too, since a formula could easily have been found in order to preserve the priority rights of each individual. In such discussions one could have exchanged records, and impartial expressions, something like that. There would have been nothing against it, and in general it is quite useful for two men working in the same field to compare their results beforehand so that they do not surprise each other at the conference. That is to the advantage of both parties, but in this case I refused because I wanted to make it quite clear to the outside that I would not have anything more to do with Rascher.

Q About the results of the Dachau experiments you had heard for the first time in Nurnberg?

A I heard in Nurnberg Holzlochner's report and no more. Like all the other persons at the conference, I listened to Holzlochner's lecture, and Rascher additional remark subsequently, but to nothing else.

Q Now could one deduce from Holzlochner's lecture that there were fatalities in the Dachau experiments?

A Of course I listened carefully to Holzlochner's lecture and one could read between the lines that Holzlochner had reported about at least one death case but it could not be determined whether this one death was

from the sea-rescue service, or whether it was a death which had occurred at Dachau. In a very unclear way Holzlochner had mixed up the experiments from the sea-rescue service, and what he had discovered at Dachau, so even a person well informed about the details could not easily distinguish in the first place how many deaths there had been, and, in the second place, whether the one death, which they said existed, had been in the sea-rescue service, or in an experiment at Dachau.

Q Did you and Holzlochner talk together after this lecture?

-- I talked to Holzlochner after we both gave lectures, and discovered that practically we had come to the same results, but that in the theoretical interpretation of death of persons we had different opinion. I told Holzlochner, of course, I would be very interested (in knowing how he explained his opinion, and I said that I would give him my records about the animal experiments, but I asked that he give me his records in turn, and to send them through official channels. I knew that Holzlochner was not in a position without agreement to give me any details. Rascher had said after Holzlochner's lectures that these experiments were secret, and, in effect, were top secrets, and that I, therefore, asked Holzlochner to send me his records through official channels to explain his theoretical opinion, and I would place my own record at his disposal in turn. Holzlochner promised to do it but I heard nothing more about it. I never received the records.

Q Now it would be interesting to know how Rascher behaved after the lecture?

A. Lutz has already described that here. After Holzloehner had finished, Rascher added a few rather unimportant scientific remarks, and then in a very unfortunate form, he made the statement which has been discussed here repeatedly that the experiments had been made possible by the Reichsfuehrer-SSl that they were secret, that they had been performed on volunteers, criminals who had been regularly condemned--the remark which has been discussed here repeatedly.

Q. Did you discuss those two lectures with other participants of the meeting?

A. Yes, of course, we talked about it. For example, I talked to Knothe and Buechner-Freiburg about it. We were all of the opinion that the form in which Rascher had made his remark was extremely ill-chosen. He made that in a trifling form, which we all considered a serious lack of tact.

DR. WILLES: If it please the Court, may I point out here briefly that there is an affidavit at the disposal of the Court of Professor Knothe which refers to the discussion which these people had after Rascher's and Holzloehner's lectures.

BY DR. WILLES:

Q. Dr. Woltz, what did you think of Rascher's statements? Did you, after Holzloehner's lecture and subsequent to Rascher's somewhat strange behavior, feel that Rascher was probably a criminal or a demoralized character?

A. That is probably not quite the right term. I can say that the manner in which Rascher made this remark was extremely disagreeable to me, and Rascher made another remark to me after the lecture. He went past me and said, laughingly, that once the reputation is ruined, one can live very well. The role which he played there apparently pleased him very much, and that is what we found unpleasant.

I must say that Holzloehner's attitude was quite different.

Holzloehner presented the matter seriously, and of course we talked about it. Buechner and Knothe thought that Holzloehner had not contributed much that the animal experiments had not already shown and did not think that Holzloehner's experiments were valid for that reason.

Q. Did none of the participants of the meeting do anything against Rascher? Some of these gentlemen were obviously indignant about the lecture and Rascher's conduct, and it would have been the obvious thing to do for those people to take action.

A. It is perhaps too much to say that the gentlemen were very indignant. I did not hear any opinions from most of them at all. I can speak only of the people who were near me and to whom I talked about the matter. Knothe and Buechner and Werz were three people who repudiated the matter. To what extent the others realized it at all, I do not know. In such a congress, when one is stuffed with lectures and science, one is not so receptive that one listens carefully to every lecture if one is not especially interested in it. I could very easily imagine that people did not hear it at all, did not notice anything special about it. One was not always initiated. It is very hard to judge how far people understand things in such a big meeting.

Q. Now, you yourself lectured at the Nurnberg meeting. On the basis of that lecture you were charged, when the Prosecution made its opening statement, with something very special. I shall now hand you a photostatic copy of that lecture.

If it pleases the Court, this is document Weltz No. 5, and it will be Weltz Exhibit No. 8.

Dr. Weltz, will you please tell the Court what is

significant, and now for the charges of the Prosecution are justified?

A. The lecture deals with re-warming after dangerous cooling. May I point out once more that "cooling" or "chilling" means the general chilling of the body, for example, in cold water. This does not mean local freezing, perhaps of the ears or the feet or the fingertips or the nose, such as occurs rather frequently. This lecture deals only with the chilling of the entire body.

It reports on animal experiments. There is no doubt whatever that the lecture deals only with animal experiments. I shall read the third sentence:

"Our experimental animals were rabbits, rats, and guinea pigs." We tested several measures to rescue these animals, and we discovered that quick re-warming was an extremely effective measure. In order to give a figure, we were able in a case of animals of which 23 per cent died -- or rather, were 85 per cent died, we were able to show that the massive introduction of warmth is the most effective. We showed that it makes no great difference in which form the warmth is introduced, whether by short waves or by hot baths. We also gave the reasons why we believed that results which we had found on animals here were valid for human beings as well. For us it was quite clear that these results did apply to human beings, and we expressed this assumption clearly in the paper. This was because the pathological and anatomical conditions in death from cold, which have long been known in the case of human beings of course and which Buechner had dealt with in the preceding lecture, were the same in human beings and in animals. Then, if there is any difference between human beings and animals, it can concern only

the skin. In short waves we had found a means which could be applied in case the skin of the human being should react differently from the skin of the animal, which was not necessarily the case.

For quick rewarming, for therapy in these conditions, we had worked out a formula of mathematical precision. It reads: One must apply as much warmth as possible, as quickly as possible, to as great a volume of the body as possible. That is the essential contents of the paper.

4. So, if I understand you correctly, as far as the practical possibilities of rescuing people were concerned, you achieved the same results as Holzlochner.

5. We come to the same practical results, but we believed that in theory we gave a better explanation. Holzlochner was of the opinion--I'll deal with this only briefly--that cold damages the organs, that the heart is affected mainly, that the human being dies because the heart is affected by the cold. Our opinion, which we believe has been proved in the meantime, is that we could show that cold does not damage the organs, the cold merely paralyzes the organs and makes them inactive. Lutz had shown that for the heart of the guinea pig, and I had shown it from the intestines of the rabbit. The organs are not damaged if one sees to it that there is enough oxygen, but this oxygen supply in cold becomes extremely difficult because the transport of oxygen by the red corpuscles no longer functions, so that in the last analysis the decisive factor is hemoglobin and the fact of whether there is enough oxygen available or not.

6. Were you quite certain that the results which you achieved with animals would also apply to human therapy?

A. We were certain, and that was very fully expressed in this lecture, that at least one form of the application of heat is applicable to human beings too, warm water or electricity. At least one would be effective. Now we know that both forms are equally effective. It is only a question of technical facility, as to which way reaches the body quicker.

Q. Now, if you were to give a final statement on all this, how your and Holzlochner's experiments are in relation to each other, this would emerge, I take it: as far as the practical handling was concerned, you both achieved the same results. As far as theories and explanations are concerned, you found the better solution. Do you think that Rascher's and Holzlochner's Dachau experiments were completely useless?

A. No, one can not be of this opinion. If I speak only of the technical and scientific aspects and ignore the moral aspects completely, one can see very clearly from the two reports in what each man sees his main task. We were interested in the sector which one might best describe as basic research. We were interested primarily in showing basically how animals can be saved from death by cold, and secondly we were interested in why an animal dies from cold at all.

Holzlochner was interested in more practical questions. Holzlochner was trying to find out whether warmth can be applied by a hot bath, by a sand bath, or by a light cradle, whether one can prevent cooling by special suits. Holzlochner investigated a number of such questions and solved some of them, which were absolutely necessary and important in practice. One can not say that Holzlochner's experiments were in vain. He came to quite a number of

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conclusions which we had not investigated at all and which we could not have investigated because these conclusions could be drawn only from experiments with human beings and not with animals.

THE PRESIDENT: The Tribunal will now be in recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

BY DR. WILLE:

Q Now, I have the following question to put to you: can you without immodesty say that your discovery of the effects of quick rewarming was important and significant?

A May I correct your question? It was not a discovery it was a rediscovery. The fact that quick rewarming can save the lives of chilled people was discovered in 1888 by Lepschinsky. This work was ignored or forgotten, so that since that time the doctrine prevailed that rewarming was dangerous and might lead to collapse. We realized, of course, that this rediscovery was of great significance, especially in war time, when many people are exposed to chill. The Navy very soon reported to us that they had had good success with this method and if I understand this unofficial information correctly, then on the basis of this work hundreds of lives were saved during the war alone in the convoy destroyers in the North Sea and of course in the future it will be a blessing. It was very clear to us that we had had the real good fortune which a research worker seldom has, that we had discovered a measure which was very simple and cheap and could be applied everywhere. We had found something that would save many lives. It is known to me that in the American press this discovery was hailed as the greatest deed of German medicine during the war. I would especially like to disown such exaggerations. One cannot rank scientific work in different fields the way one can rank tennis players, that is impossible. Of course, it was clear to us that our discovery was important. Then, in the German press, I was subjected to attacks because of this work, it was maintained that I had killed many people in Dachau together with Rascher. I was called a beast in human form. I believe it would have been better if the German press had used this space which was devoted to these attacks, for an objective explanation of how treacherous death by cold is and how easy it is to save the lives of such people.

If I remember correctly, according to a newspaper report in the last cold period, 95 people died from cold. I also think that these 95 people might have been saved with a little hot water from the locomotive of the train they were in, but these 95 people died because there was no one in the train who knew what to do and knew how dangerous death by cold is. I only wish what we discovered may be spread and disseminated as soon as possible so that such things may be prevented in the future.

Q Mr. President, to illustrate what the witness has just said, I would like to put in Weltz Document No. 20, Exhibit No. 9 from Document Book No. 2, an excerpt from a magazine, namely the "Reader's Digest" of January 1947. This says that the method of rewarming was used by America in the war against Japan and it is now a generally recognized method. This is page 77 of Document Book 2. Now, Professor Weltz, let me ask you; did you do what you did in order to see that your important discoveries were adequately publicized?

A Two months after the Nurnberg conference, I published an extensive paper in the Muendhner Medizinische Wochenschrift, a German periodical with a large circulation. Of course, we did not keep our discoveries secret, we published them as widely as possible, so that not only the German Wehrmacht, but everyone who read it, including our enemies, could make full use of it, once they had read it.

However, within my field of work I saw to it that the knowledge was disseminated. I called together the doctors of the Sea Rescue Service. We delivered lectures in Paris. However, we collected the discoveries that had been made in Norway and on the West Coast so that we could work further in this field, and of course, there are a lot of problems involved here so that it is not possible at any one time to say that the problem is solved. There are many questions that must be worked on in the future.

DR. WILLE: Mr. President, I shall put in as Document 21, Exhibit No. 10, the paper that Dr. Woltz just mentioned that he had published. This is an expanded version of the lecture he delivered in Munich.

Q Dr. Woltz, I have concluded my questioning on the freezing question and now come to the last charge against you, namely, the charge of conspiracy. First of all I should like to ask you whom of those in the dock you know. I shall read their names. Karl Brandt, Handloser, Rostock, you don't know them?

A No.

Q Another question, did you have any relations with the Reich Research Council in your capacity as head of the Medical Military Institute in Munich?

A No.

Q Do you know Professor Schroeder?

A Yes, I knew him, of course. He was my immediate superior. Professor Schroeder has himself stated when and how often we spoke with each other. I may repeat it happened four times. First of all, 1938, at the X-ray Congress that I was chairman of; secondly, the second time in 1940. I remember very well that I delivered a lecture regarding the effects of altitude, and the duties of the aviation

Doctor who was in charge. This was in Brussels. The third time I saw Dr. Schroeder in 1943, in autumn, when I was sick in the hospital. Dr. Schroeder has also described this meeting. Professor Schroeder was about to be appointed inspector and knew that, and this was the reason why I asked Professor Schroeder to say whether the policy I was following at the institute should be continued. I reported to him briefly on our experimental work. Other things were not discussed, above all things that have anything to do with the matters in the indictment here. The last time I saw Professor Schroeder was in Bad Kolhub, 1945, in February. Here again I told him of the work we were doing in the institute, and nothing that bore any relation to the indictment here.

Q Do you know Ganzken?

A No.

Q Professor Gebhardt?

A For a while I was with him at the Sauerbruch Clinic in the beginning of the 20's, but I certainly have not seen him since 1926.

Q Dr. Kurt Blome?

A Before the war I had dealings with him in matters concerning the German X-ray Association, but not since the war have I seen him or had anything to do with him.

Q Krugowsky?

A Krugowsky? Didn't know him either.

Q Rudolf Brandt?

A Didn't know him either.

Q Poppendick?

A Didn't know him either.

Q Sievers?

A Didn't know him either.

Q Did you have any connections with Ahnenerbe?

A No. Sievers has already said so.

Q Did you know Professor Rose?

A Professor Rose has also testified that we saw each other twice, once before the war in a glider contest, and the second time at the Nurnberg Conference.

Q Ruff and Romberg have been clarified already. Did you know Brack?

A No.

Q Becker-Freysing?

A I know him. He was the expert during the latter period. At the end I had continual official relations with him. I never spoke to him personally about Dachau. On the other hand, I know that my institute, namely, Lutz, was in touch with him at one time. Let me describe this. I recall it as follows: I have already said that our theories differed from Holzlochner's regarding the question of freezing death. Now, Lutz had submitted his papers for publication and in this paper this difference of opinion was brought to light. I believe a draft of this paper was sent to Holzlochner so that he could state his opinion on it. Then Holzlochner returned the paper and in substantiation of his opinion pointed out things in Holzlochner's report. We looked up this report since we were very interested in this particularly, particularly since at the Nurnberg Conference I had seen Holzlochner and it was ascertained that the report was not to be found at the Medical Inspectorate. Thus along this circuitous path we were not able to see the report either, much as it would have interested us.

Q Did you know any of the other gentlemen?

A Schaefer, Hoven, Reiglboeck, Pokorny, Oberhauser, I did not know any of them.

Q Now, I am not of the personal opinion that the conferences in Nurnberg and elsewhere were meetings of conspirators, but I should like to know whether you took part in any consulting conferences?

A No.

Q And what do you have to say about the Nurnberg Conference?

A The Nurnberg Conference was not a consulting conference.

Q What was it then?

A It was a scientific conference, dedicated to a specific subject in which many people were interested, and consequently many people attended. I don't believe that any armed force in the world could get along without having such exchanges of opinion among their experts in certain fields. From a scientific point of view the Nurnberg Conference was certainly the most significant meeting that ever took place to consider this subject. I know the literature on freezing very well, and I know of no conference which devoted itself to medical freezing research so profoundly as the Nurnberg Conference.

Q Did you consider your relations with Ruff and Romberg a conspiracy in the usual sense of the term?

A I have said here in great detail that I consider my relations with Ruff as irreproachable. We do not have to reproach ourselves with the fact this was a war necessity. I believe that the agreements I had with Ruff can be measured against the strict criteria of peacetime. The purpose of our plan and agreement was to save human lives, and I do not believe that such an agreement can be characterized as a conspiracy.

Q Now, answer me one last question. The Prosecutor has reproached all the defendants with violating the

Hippocratic oath. I should like to have your personal attitude as a physician toward this subject.

.. The Hippocratic oath which has become here a bone of contention is the professional oath of a certain profession which pledges allegiance to certain principles. It is an honorable historical document, which, however, does not altogether fit present times. If it is to be applied today its wording has to be changed very extensively, and in these reformulations a series of new oaths have been drawn up which have only a vague relation to the ancient Hippocratic oath.

At the University at which I studied it was not customary that persons take such an oath when they were being graduated, but these new formulations of the oath are based on the general principle of "nil nocere", and I believe also that in discussions with laymen the same false opinions arise, at least the discussion here seems to have shown that medicine based on the principle of "nil nocere" is a very impoverished medicine and we are unfortunately not in a position to carry on medicine on that simple principle today. It is a matter of course that we must recommend to our patients a number of measures of which we know in advance under certain conditions they can be harmful. The doctor who acts according to the principle of "nil nocere" is by no means a good physician if he gives too much weight to that principle. It is frequently the man who cannot decide, who is satisfied with inadequate methods. I believe that if the tasks and duties of a doctor are to be defined with a Latin formula, that could better be described by the principle "salus aegroti, suprema lex esto", meaning that the health of the patient shall be the highest law. I believe that this principle defines the tasks of the doctor than the principle "nil nocere" which can be misunderstood. All of these new formulations of the oath based on the Hippocratic oath make sense so far as the relations between the doctor and the patient are concerned, but they become entirely nonsensical where experimental medicine works on healthy subjects. I can see no connection between the Hippocratic oath which regulates the doctor's relation to a sick person, and the question of whether a criminal is to be executed and whether he is first to be asked whether he would like to subject himself to an

experiment. As I say, I can see no connection. When the Hippocratic oath was first formulated there was no such thing as experimental medicine. Experimental medicine is a new development within the last century. It has been highly successful. A medicine not based on the success of experimental medicine is inconceivable today. We would have no anesthetic and many other things which are very essential in medicine today. If there are individual doctors like Professor Leibbrandt here who repudiate all experimentation even voluntary experiments, then one must ask whether that is not a sort of double entry book keeping, if on the one hand these doctors avail themselves of what experimental medicine has discovered and on the other hand repudiate the methods through which these discoveries were made. I think this is essentially illogical. I personally am of the opinion that in experimental medicine of the innumerable papers and works that we use here only partially and accidentally totally a new international standard will be developed as to what is permissible, what is held to be of a dubious nature and what is to be forbidden. Now I personally have only considered permissible voluntary experiments on legally condemned criminals. I also said that this is not to become the general procedure or general rule but we discussed the fact with Hippke to experiment on ourselves, which is to be the basic rule and that these other experiments were to be reserved for a minimum number of problems where animal experimentation would not suffice and where experiments on one's self for one reason or another was impossible. As I said I believe that these principles correspond to an international standard and that they are acceptable. This

is a very complicated problem and I don't have to touch it, when one speaks of experiments on minors or mentally ill persons and so forth, the problem would become very, very complicated, also whether or not the State makes these people legally available, all of these are matters with which I am not concerned myself, but as I said voluntary experiments on legally condemned criminals in cases where other means of experimentation are not available I consider permissible.

DR. WILLE: At the moment, Your Honors, I have no further questions.

BY JUDGE SEBRING:

Q. Professor Veltz, I understand that prior to the time that the high altitude experiments were to begin in Dachau, you had a conference in Berlin with Ruff and Romberg concerning the possibility of conducting these high altitude experiments at Dachau concentration camp. Do I understand that correctly?

A. Yes, that is so.

Q. I also understand that subsequent to the Berlin conference but prior to the time that the experiments began at Dachau, you had a conference in Munich, is that so?

A. Yes, that is so.

Q. Who was present at that conference?

A. In the second conference, you mean? Ruff, Romberg, Rascher and myself. This was the conference at which Wandt and Lutz were previously in the room.

Q. So at that time you actually went into the details at this conference when you four men, Ruff, Romberg, Rascher and yourself were present?

A. Yes, that is so.

Q. Now at the meeting, the Berlin meeting and the Munich conference, what was the clear understanding concerning the men who were to be used as experimental subjects?

A. First, let me make a correction. It is not correct to speak of a conference in Berlin. It was simply a conversation between Ruff and myself and later on the discussion in Munich, we assumed regarding the experimental subjects what Rascher always told us, and which was to be read in the letter from Himmler, which he showed us at that time, our assumption was that these were legally condemned criminals, not political prisoners, that these persons were to volunteer, and that they should be rewarded in accordance with the extent to which they were used. That is what Rascher told us, and that is also in the Himmler letter.

Q. Was it to be understood that any distinction was to be made between German and non-German nationals?

A. We did not discuss this point in detail at that time because then the foreigner was not legally condemned by German Courts at all. That took place only later in the course of the war, namely, that German courts passed judgment on the forced labor in Germany. There was very little of that at that time.

Q. Did this latter phase take place during the period which had been set aside for your experiments, that is to say, did your relationship during that period of time change, to your knowledge did the German government ever pretend to exercise any judicial control over non-German nationals with the result that non-German nationals were incarcerated in the concentration camp at Dachau?

A. No, we were speaking of people who had been legally condemned by German courts and at that time only Germans were under the jurisdiction of German courts. The number of foreigners was very small at that time so that they played no role of any practical importance.

Q. Then you understood these were to be prisoners who were German nationals who had been tried and sentenced by a regularly constituted German Court in Germany?

A. Yes.

Q. That as a result of this trial, these German nationals who had been legally condemned by a German Court on German soil were serving terms in Dachau?

A. Yes.

Q. Was that the clear understanding of all those who were present?

A. I believe that these conditions were perfectly clear and were not misunderstood by any one because Birkbe understood it correctly at our first discussion, and also the witness Lutz has said here that he understood it clearly and I do not believe there was any doubt on that point whatsoever.

Q. There certainly was no doubt in your mind about the matter?

A. No, Ruff, Rumberg and myself did not doubt this at all because this was the cardinal point which had developed at the first conversation with Ruff in Berlin.

Q. Was any distinction to be made in regard to the type of sentence that these inmates had received?

long terms as habitual criminals, or did you say that any criminal who then was in Dachau who presumably had volunteered would be used during the course of your experiments?

A This question was first discussed when we saw the camp commander in Dachau. There there was discussion of the selection of the experimental subjects on the basis of the instructions that the camp commander had received via Schnitzler from Himmler and then people in preventive custody were taken.

Q What class of people did you understand could come within the category of preventive custody?

A I knew that protective custody was the sentence in the case of uncorrectable recidivism and were standard policies here. I happened to know this through a book that a well-known criminologist had read to me and had concerned himself with the theory of protective custody. The book is by Heindl and is entitled "The Habitual Criminal" and there is a statement of when and under what circumstances protective custody is permissible so that I had good knowledge of this as a layman.

Q Generally speaking, then, you, Ruff, Romberg and Rascher understood that these experiments were to be carried out either upon persons who had been condemned to death or upon the habitual criminal who was in protective custody? Is that correct?

A Yes. As soon as we had spoken with the camp commander we knew that people in preventive custody were to be used.

Q Was it known to you that, at the same time the Ruff-Romberg-Rascher high altitude experiments were being conducted at Dachau, that Rascher was also supposed to be carrying out separate high altitude experiments on his own account under some sort of separate order from Himmler?

A I didn't know that no. As soon as the experiments began, I received no further news from Rascher. I believe I have stated that here in some detail.

Q Did you receive any reports from any one else?

A You mean regarding Rascher's second experimental series?

Q Regarding any of Rascher's experimental series or regarding the Ruff-Romberg-Rascher series which was then taking place at Dachau?

A No, I have already said, in direct examination, that as soon as Rascher showed me this telegram and from then on I heard nothing more. And this telegram was the reason why nothing more was told to me.

Q Then I assume that you heard nothing from any one concerning the death of Rascher's experimental subject which was supposed to have occurred in the middle of April or the latter part of April, 1942?

A I heard of these deaths only here in my interrogations.

Q What you said in regard to the April death would also be true in regard to the two deaths that are supposed to have occurred in May, 1942, in what one of the witnesses said here was Rascher's separate experiments?

A Yes.

Q After the Ruff-Romberg-Rascher experiment was completed - the one in which Romberg was to act as a subordinate to Ruff - Rascher was to act as the subordinate to you - and you and Ruff were to collaborate, did you receive any unofficial reports as distinguished from official reports concerning the results of those experiments?

A Rascher never worked under my direction. Rascher left at a time before the experiments had begun or after only a couple of experiments had been carried out about which I, however, knew nothing. I personally knew, at the moment when Rascher left, nothing about whether the experiments had begun or not in Dachau.

Q Upon what date did you understand that Rascher's official connections with you or your institute was severed?

A I figured out more or less as follows: On the 19th of February as it can be seen, from Frau Rascher's letter, an inquiry was directed to the Reichsfuehrer SS and, at this time or shortly thereafter, the experiments in Dachau were cut off. The telegram that was shown to me is presumably the answer to this inquiry of the 19th of February and it must have reached Rascher a few days later. Now, it appears that Rascher didn't show it to me immediately but carried it around for a

few days in his pocket, and if this conjecture of mine is correct as is Schnitzler's file note of the 28th of February, then that was A Saturday, and on the Friday following I was in Berlin and reported to Anthony. Then, according to this, Rascher must have left on the Tuesday, before the Friday I just mentioned. I should like to assume, on the basis of these dates, that Rascher left at the end of February or the beginning of March. It seems certain to me that on the 16th of February Rascher was already under a new command. That can be seen from Document No. 318, Exhibit 57. In this document, as of the 15th of March, Rascher is at another station with a new job. In the meantime, however, he was with the Luftgau Medical Department. The interval here is not very great. Rascher must have left me during the first days of March.

Q Did Ruff or Romberg ever tell you, or did you ever gain any information from them in any other manner that during the latter part of May 1942 a death had occurred at Dachau in high altitude experiments?

A No, I never found that out.

Q Neither did Ruff or Romberg ever tell you of the deaths which occurred in May, 1942?

A No.

THE PRESIDENT: Have any of the defense counsel questions to be propounded to this witness?

DR. VORWERK: Vorwerk for Romberg.

JUDGE CRAWFORD: Just a minute. One moment, Counsel.

BY JUDGE CRAWFORD:

Q Professor Weltz, you stated that you received permission to question persons who had been rescued from accidents at sea, persons who had been exposed to the cold. Who gave you that permission? From whom did you receive the permission?

A From the Air Fleet Physician III, whose seat was in Paris and I drifted around in his area.

Q Who directed you to question these people?

A I looked for people of whom I knew that they had fallen into the sea and had been rescued. For instance, I knew that one such person was in Bordeaux and another in Boulogne, and I took these trips in order to look these people up individually and ask them what their experiences had been.

Q You stated that you experimented on animals. Who gave you this permission, or who directed you to make these animal experiments?

A Within the frame work of my general research work in connection with my tasks at the Institute I was able to carry out these animal experiments, and I did not need permission at all. I had general orders to carry out basic research and within the frame work of the program, I could do these experiments.

Q As I understand it, if someone received permission or was directed to make animal experiments, he did not have to obtain permission from Himmler, but if the experiments were to be made on concentration camp inmates, Himmler's permission had to be obtained?

A Yes.

Q Then the only thing that Himmler had to do with these experiments was to give permission for the use of inmates of concentration camps?

A Of course, we could not carry out any experiments in a concentration camp without Himmler's permission.

Q But, as I understand, Himmler didn't do the planning of these experiments. He would just give the permission for the material to carry out those experiments.

A Yes, we as members of the Luftwaffe needed in addition an order from the Luftwaffe, the medical inspector, for carrying out the experiments.

JUDGE CRAWFORD: No further questions.

BY DR. VORWERK:

Q Professor Wetz, do you know that the Aviation Research Institute at Adlershof in fall, 1941, published a report under the number FA 1416, under the title, "Parachute Descent from Great Heights"?

A This will be on the experiments up to 12,000 metres. Yes, I believe we received that.

Q Then you knew that the Research Institute was working on the problem of rescue from great heights?

A Yes, I knew that.

Q In your discussion with Ruff, Romberg and Rascher, was there ever mention of other experiments than the experiments concerned with the rescue from great altitude?

A I believe that in my direct examination, I said that when I went to Berlin, Ruff had a predetermined program which he told me about and so far as I was concerned in this whole matter, nothing was

Q As I understand it, if someone received permission or was directed to make animal experiments, he did not have to obtain permission from Himmler, but if the experiments were to be made on concentration camp inmates, Himmler's permission had to be obtained?

A Yes.

Q Then the only thing that Himmler had to do with these experiments was to give permission for the use of inmates of concentration camps?

A Of course, we could not carry out any experiments in a concentration camp without Himmler's permission.

Q But, as I understand, Himmler didn't do the planning of these experiments. He would just give the permission for the material to carry out those experiments.

A Yes, we as members of the Luftwaffe needed in addition an order from the Luftwaffe, the medical inspector, for carrying out the experiments.

JUDGE CRAWFORD: No further questions.

BY DR. VORWERK:

Q Professor Wertz, do you know that the Aviation Research Institute at Adlershof in fall, 1941, published a report under the number FA 1116, under the title, "Parachute Descent from Great Heights"?

A This will be on the experiments up to 12,000 metres. Yes, I believe we received that.

Q Then you knew that the Research Institute was working on the problem of rescue from great heights?

A Yes, I knew that.

Q In your discussion with Ruff, Romberg and Rascher, was there ever mention of other experiments than the experiments concerned with the rescue from great altitude?

A I believe that in my direct examination, I said that when I went to Berlin, Ruff had a predetermined program which he told me about and so far as I was concerned in this whole matter, nothing was

changed in this program.

Q Thus I understand you to say that you had supervisory control over these experiments in rescue from great altitudes. Before Rascher left you, you intended to supervise these experiments, is that so?

A Not quite. It was very clear that the purpose of our collaboration was to carry out this program. Now, what would have happened if I would want to change this program I do not know, because I never discussed this with Ruff.

Q Professor Weltz, you misunderstood me. I mean the following: If Rascher had not left you, you were to have supervisory control over Rascher in these experiments on rescue from great altitudes, because he then would still have belonged to your institute?

A Yes.

Q Through the fact that Romberg was to assist in these experiments, did this fact limit your supervisory powers?

A No. These things were quite independent of one another. My supervisory control and duty over Rascher was a purely military matter and whether Romberg was there or not made no difference.

Q You stated that you spoke with Hippke about the variety of the possible experimental subjects and that they were to be graded according to the dangerousness of the experiments. Did you ever discuss this question with Ruff or Romberg, or with Romberg and Ruff separately?

A No. With Hippke when we discussed it -- with Hippke the word murder was used a little bit too freely the first time and it was later ascertained that these persons did not always have to be murderers. These were merely theoretical considerations, which were not based on any concrete investigations.

DR. VORWERK: No further questions.

BY JUDGE SEBRING:

Q After you and Rascher, Ruff and Romberg had your discussions at Munich, when was the next time you saw and talked either with Ruff

or with Romberg?

A Either on the next day or the day after that on our joint trip to Dachau.

Q Subsequent to that time, when was the next time you talked with them?

A After our joint trip to Dachau, I did not see Romberg for several years. Ruff visited me once. That must have been when he returned from his visit to Dachau. He came to my house. In the meantime I had gone on the basis of that telegram. Ruff told me that he already knew that Rascher had left and he said he couldn't tell me anything more about the experiments, because they were secret.

Q Were the experiments that Ruff and Romberg were carrying out at Berlin in the same experimental series secret?

A Yes, the fact that we went to Dachau did nothing to change the fact that these experiments were secret.

Q Well, he discussed those with you, didn't he?

A Yes, that was a different sort of a secrecy. Himmler's telegram was binding only on the people to whom Himmler had given permission to speak of these things. Military secrecy in general was of such a sort that other people could be excluded from the secret. For instance, I could have called Lutz and said, "You are a part of the question and from now on you must observe that secrecy. In these developmental assignments that Ruff mentioned which included the program from Dachau the situation was generally held secret only in the first steps when it was being developed. Then after the experiments were concluded, they were declared perfectly open, or parts of them were made public, because these results had somehow to be made generally known. That is why we had the experiments. In other words, at the beginning of the experiments there was a general obligation to maintain secrecy and later it was either partially or totally lifted.

Q Now what date was it when Ruff came to see you at Munich on the occasion of your conversations you have just been telling us about?

A My last meeting with Ruff after the experiment began, you mean?

Q You said that after you went to visit Dachau, then at some subsequent period of time after you were no longer with the experiment, Ruff came to Munich and told you that he could not discuss the results of the experiment with you because you were no longer connected with the experiment. What date was that?

A Ruff has already stated that date. That was shortly after Rascher left, as far as I can see. In the first half of March, I think Ruff said it was. I myself do not know the precise date for sure. I only knew that the visit took place after Rascher left.

Q. Subsequent to that time did you ever have a talk with Ruff or see Ruff?

A. Yes, I saw him several times; for example, at the Goerlitz conference or the conference in Freiburg; but we did not speak any more about Dachau.

Q. Then nothing was ever said between you and Ruff after the conversation in Munich concerning Dachau; and of the experiments at Dachau; any of the results at Dachau; or the fact that any of the tests had resulted fatally?

A. I only found out the results of the experiments when they were made public. I never discussed with Ruff the individual experiments and, specifically, so far as deaths were concerned.

Q. Did you ever see Ruff and have conversations with him after May 1942?

A. Yes, I have said that I met him, for example, in conferences at Goerlitz and Freiburg. I met him several times.

Q. All of those conferences were after the month of May 1942?

A. Yes.

THE PRESIDENT: Are there any other questions of the witness by defense counsel?

DR. MARX: Dr. Marx for Becker-Freyseng.

EXAMINATION

BY DR. MARX:

Q. Professor, I gathered from your direct examination that regarding Rascher's plans for high altitude experiments in 1941 and 1942 you spoke both with Professor Hapke and Professor Anthony, the expert for aviation medicine in the Medical Inspectorate of the Luftwaffe at that time. Let me ask you now to clear up this matter whether at this time you spoke with Professor Becker-Freyseng on these experiments.

A. No, I did not.

Q. You also said that from your institute inquiry was made at the medical inspectorate regarding the final report of Rascher and

Holzlochner on these cold experiments. Can you remember that?

A. Yes, Lutz told me about this; and I repeated it as I heard it.

Q. Then you could draw the conclusion that you or your institute were of the opinion that this report could be found at the Medical Inspectorate? Will you please make a statement on this subject? How did it happen that you or Lutz asked for this report from the Medical Inspectorate?

A. I believe I said that before. The report that Lutz sent in, the paper that was to be permitted to be published, contained opinions that differed from Holzlochner's; and in order to bring these differences into some sort of agreement, as far as I remember, the paper was sent to Holzlochner. Holzlochner for his part said that in order to substantiate his opinion, Becker-Freysong should take a look at the report. Becker-Freysong looked for the report and didn't find it. Consequently we didn't know how Holzlochner substantiated his opinion. That is how I remember it.

Q. But Becker-Freysong did not say that he had received or seen the report?

A. On the contrary, the report, as I just said, was not found.

Q. Well, even if it wasn't found, he could still have seen it before; but he told you that he hadn't received it at all?

A. No, he didn't say that to me. This involved Lutz.

Q. Now, another subject. There has been frequent mention of the Nurnberg Luftwaffe conference regarding sea and winter rescue in October of 1942. From the material put in by the prosecution, it can be seen that Professor Anthony was chairman of this conference. I should like to ask you, was this the only such conference in which you took part, or were there several such conferences?

A. There were such conferences at regular intervals. I already mentioned the Goerlitz conference. Another conference was in Hamburg. There were also conferences of this sort during peacetime.

Q. Who was chairman of these conferences as long as Anthony was the expert, that is, until May of 1944?

A. The expert was chairman, I believe. Becker-Freyseng was chairman of the Goerlitz conference.

Q. Anthony was expert until May of 1944?

A. I don't know the precise date but that could be.

Q. After Anthony left, were there other conferences; and, if so, who was in charge of them?

A. I just told you the Goerlitz conference was under Becker-Freyseng. Otherwise I do not remember any further conferences after Anthony left.

Q. Professor, at the Nurnberg conference you read a paper. I may assume that you also spoke at the other conferences. Therefore, I want to ask you, did you have to show the manuscript of your paper to the Medical Inspectorate beforehand, or did you just tell them the subject and general contents?

A. If you wanted to read a paper at such a conference, you informed the Medical Inspectorate of the subject and gave them a one or two page precis of the contents. Often even that was omitted.

Q. In other words, the manuscript itself was not submitted?

A. No.

Q. Now, a final question about the Nurnberg conference. In your direct examination you said that you had concerned yourself with freezing research in your institute. Therefore, I can assume that you know the people in the Luftwaffe who know about freezing experiments very well. Now, so far as you know, was Becker-Freyseng one of those doctors who had practical experience in sea rescue or who had scientific knowledge of and had worked on freezing problems?

A. No, I can say pretty definitely that Becker-Freyseng did not have anything to do with freezing. His field lay elsewhere.

Q. Did Becker-Freyseng take part in the discussion at the Nurnberg conference, or did you happen to have talks of a scientific nature

about the freezing problem with him?

A. That I cannot say for sure. It could be that in connection with some of our experiments with pigs we talked about matters that were related to this; but I really can't say for sure.

Q. You mean only animal experiments here?

A. Experiments on pigs.

Q. I refer you to Document 934 of the prosecution, Exhibit 458. This is a list of research assignments for 1944. You undoubtedly remember it?

A. I know that this list was submitted.

Q. It was put in during the direct examination of Professor Schroeder. Now, from this document it can be seen that you received a research assignment from the Medical Inspectorate. Will you please say how it happened that you received this assignment, although you were the head of an institute belonging to the Luftwaffe and Professor Schroeder has said here on the witness stand that such research assignments were given only to civilian institutes as a general rule?

A. May I ask you what this research assignment was?

Q. Unfortunately I don't have the document available. Did you receive several research assignments?

A. Yes, we did.

Q. Can you not remember a research assignment of the year 1944?

A. The last research assignment that we received had a sort of peculiar origin. Because of bureaucratic difficulties we had no funds available. We couldn't settle things in cash; and we simply had to send bills. They were later paid, months later, by the Luftgau. Consequently, it was an unpleasant fact that we couldn't buy anything, not even a pencil or an eraser, but could only buy it on account. For this reason I had a research assignment given to me. This meant that we received some ready cash; and I chose as the subject for this research assignment any old subject that we were working on anyway.

Q. I am just told, Professor, that it was a research assignment

regarding the gastro-intestinal channel under pressure.

A. Yes, that was a formal research assignment. Before I founded the institute, there were research assignments that were of some significance. Then at the beginning of my civilian institute, before the war, this research assignment was of some importance; but later, during the war, it had none. It became of no importance when the Institute for Air Medicine was founded; that is to say, it had no further scientific importance. It did have a financial importance.

Q. When you were given this assignment, did you receive any instructions regarding how you were to carry on your research?

A. No, and in general that was not possible.

THE PRESIDENT: Counsel, the Tribunal will now be in recess until 1:30 o'clock.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 7 May 1947.)

THE MARSHAL: The Tribunal is again session.

DR. GEORG WELTZ - Resumed

THE PRESIDENT: Any further questions to be propounded to this witness by defense counsel?

Dr. Marx does not seem to be present. He had not completed his examination.

DR. WILLE (Counsel for the Defendant Weltz): Mr. President, my colleague Dr. Marx asked me to tell you that he has no more questions to put to this witness.

THE PRESIDENT: The prosecution may cross examine.

CROSS EXAMINATION

BY MR. HARDY:

Q Dr. Weltz, where were you at the end of the war?

A At the end of the war I was in Iking, 25 kilometers south of Munich.

Q Were you taken prisoner by the Allied Forces at the end of the war?

A No, I remained in my small country house until on the 20th of July 1945, I was requested at my city home to report to the CIC in Munich in Mauerkirchstrasse. Up to that time I was free.

Q When was the first time that you were placed under arrest and incarcerated in a prisoner of war camp or civilian internment camp by American authorities?

A I was only arrested once, that is, I was asked to report on the 21st of July in Mauerkirchstrasse in Munich, the CIC. From there, I was sent to the prison at Freising for some time, then I was a prisoner in the hospital in Freising--I had become sick. Then on the 26th of September 1945, I believe it was, I went to the Moosburg Camp. I stayed in Moosburg until the 6th of December 1945. The 6th of December 1945, I was transferred to Dachau.

Q What was the reason why you were placed under arrest at that time in July 1945?

A I never learned that.

Q Were you in the automatic arrest category because of your rank?

A I was taken away from Freising in automatic arrest in Moosburg.

Q Now, you had an institute in Munich. When did you first take charge of this institute in Munich?

A You mean now the Institute for Aviation Medicine of the Luftwaffe?

Q Yes.

A This institute was assigned to me when it was founded. It was founded on paper in the fall of 1941.

Q How long did you remain at the institute after it was founded, until the end of the war?

A Until the end of the war, yes.

Q Did the institute ever receive any bombings?

A Yes.

Q Was it severely damaged as a result to the bombings?

A I have already said that in 1943-44 I moved the institute one section at a time. One department went to Freising, one went to the State Farm Hirschau near Freising. Nothing happened to these barracks, but the original two barracks which remained in Munich, and the laboratory that remained there, were completely burned out in 1944. They were wooden barracks and nothing remained of them.

Q Well, now, when you moved your institute because of the bombings were you able to salvage your equipment, your files and furniture, and the necessary things, so that you could continue your work?

A To Freising and to the State Farm at Hirschau, we moved almost all the scientific equipment which we needed, but the laboratory and the official files which did not refer to our research remained in the safe in Munich. We couldn't move the safe and besides, the laboratory was still working there. I have already said that the files of the Institute for Aviation Medicine and the files of the laboratory were

taken care of together by Stabsarzt Wendt, and Stabsarzt Wendt remained in Munich. All the files which referred to transfers, assignments, secret records, they were burned in Munich in 1944. All the new records were kept at Freising. Our scientific records, the library, special publications, and so on, we had taken with us. That was partly at Hirschau and partly at Freising.

Q Now, do you recall being interrogated in June, that is the 6th day of June 1945, that is before the time you were arrested--you were still a free man--by Major Alexander of the U.S. Army Medical Corps?

A That was not an interrogation, at least I didn't realize that it was an interrogation. Professor Alexander came to us as a scientist who was interested in our work. He asked us about our work. We had previously been visited by some aviation medical commissions and we showed Professor Alexander what he was interested in. It was no interrogation. Professor Alexander did not represent himself as an investigator but he presented himself as a Doctor who was interested in our scientific work, and we discussed with him the future of the institute. I could not see that this was any legal examination or any such thing.

Q Well, now, Dr. Alexander, that is the same Professor Alexander who appeared here as an expert witness, was interested in chatting with you, or interrogating you, concerning your work, or any work, on shock from exposure to cold on human beings. Did you inform him about your knowledge of experimental on animals?

A. Yes, I showed him our files.

Q. Did you inform him about the work of the German Navy and the German Air-sea rescue service in France?

A. Yes.

Q. Did you inform him about your knowledge of work on human beings?

A. No. Professor Alexander wanted to know about our work, and we had not performed any tests on human beings, and the tests on animals and pigs, I have described, and I showed Professor Alexander all these records.

Q. Did Professor Alexander ask you whether any work on human beings was being done, either by yourself or any one else whom you knew? Didn't he ask you that in June 1945?

A. Professor Alexander asked me how I knew that our methods had proved of value in regard to human beings, and the only thing I failed to tell Professor Alexander at that time was my attendance at the Nurnberg Conference, and what I knew about the Nurnberg Conference.

Q. Of course, you knew that Dr. Alexander was at that time working on what was called CIOS-Target, No. 24, Medical Investigation Team for the Combine of Intelligence Subjective Subcommittee G-2, Division of Shaef, and he wrote an extensive report as the result of his work, and this report I have a copy of here, which was written in the year of 1945, which was a considerable long time ago, that is, before he came here, and, that is before this trial, before the time you were indicted; he stated in that report on page 12 in reference to one Dr. Wertz, wherein I might add he gives you considerable credit, that you were asked whether you had ever done any work on human beings, and he had asked, and I quote what he said about you, "He" referring to Wertz, "who was then asked whether any work on human beings was done either by himself or by any one else with whom he knew, and he was again quite positive in denying the question." Now, what

was your reason for not informing Dr. Alexander about your knowledge of work by Rascher?

DR. WILLE: Mr. President, may I object. I hear that Professor Alexander is here in the building, and he can appear as a witness. Since the Tribunal follows the principle that the best and shortest means of evidence is always to be applied, I ask the Tribunal that Professor Alexander be called to the stand personally, instead of reading a document.

MR. HARDY: That is not necessary, Your Honor. I am not calling Dr. Alexander to testify. I am merely asking this witness on the stand what he said in answer to questions two years ago. I am merely just searching the witness for information about how he felt about these matters two years ago, and if the witness denies what he said it may necessitate calling Dr. Alexander on the stand. I am introducing this report, which was an exhibit before the International Military Tribunal, and I can if I wish, request the Tribunal to take judicial notice thereof. I deem it unnecessary, I am merely probing the witness, and I am not relying on Dr. Alexander's testimony whatsoever.

THE PRESIDENT: Counsel for the Prosecution may ask the witness if if Dr. Alexander on the time and place mentioned propounded certain questions to the witness, and the witness has answered the same. If the record is preserved, the question propounded by that question can be taken from that record and propounded to the witness. With that understanding the objection over-ruled.

BY MR. HARDY:

Q. Dr. Woltz, what was your reason for not informing the officials of the United States Army in this matter about all the activities at Dachau concerning experimentation on human beings, wherein you were fully aware of the activities, inasmuch as you had known the results of Professor Holzlochner's work at Wurnberg Conference. Was it because you thought you might be involved in some criminal activity, or, was it because you did not want to give the enemy further information?

A. I already said that Professor Alexander never in any way was recognizable as or presented himself to me, or to my associates, as an official investigator, and particularly not as an investigator of the American judicial or intelligence Service. He came as a scientist who was interested.

Q. I imagine the scientist was extremely interested in knowing whether or not the work as result of your research, and the research of Lepchinsky of the 1800, had been performed on human beings; not from a legal aspect, but from an scientific aspect. You had far more reasons to inform Dr. Alexander about that work on the human beings, didn't you?

A. I already said that I gave Professor Alexander all the files completely we had preserved except what were burned in Munich, which were not of interest to Dr. Alexander. I had reason not to tell anything unless I was asked directly for the following reasons: At that time there started a wave of arrests, which no one could then grasp. I remember a number of my acquaintances had been arrested, and we did not know for what reasons they were arrested, and we did not know where the people were being sent. Therefore, in order not to bring anyone in the danger of arrest I said no more than the things for which I was responsible. I gave Professor Alexander all the information about things for which I was responsible to do. I did add nothing, for reasons of comradeship. I did not consider I had any right to give any additional information, and put other people in danger of arrest, because we could not see how that information would be used.

Q. Then you were attempting to cover up Dr. Rascher?

A. I know very little about Rascher's activity.

Q. You knew all about his activity. You were at the October meeting in 1942?

A. Yes, it became quite clear here how much I knew about Rascher. I know that he performed the experiments in Dachau together with Holzloeb-

ner. I did not know that any deaths had occurred. I did not know to what extent these experiments were legal. I knew very little about them. Particularly of course, since my knowledge was so indefinite, I had no reason to talk about other institutes, and because it happened outside of my own institute, which was something about which I had no exact information to give.

Q. Doctor, this examination is going to take considerable length of time. During the remainder of the examination I want you to cooperate, and I want you to try to be consistent. You have introduced a document here this morning wherein you have attempted to show this Tribunal how important was this work on Shock From Exposure to Cold to the United States Navy and armies in the Asiatic area, which was written in the Readers Digest; and here you state now inconsistently that you yourself were violently opposed to volunteering any information on the experimental work conducted on human beings, and that the answer was available for the United States Medical services by virtue of your knowledge at the conference in October. Now, Doctor, we shall try to proceed from here and do so in a better manner than you have for the last half hour.

A. May I correct what you just said. Two expert commissions had visited us before that time, Aviation Medical experts, and I gave these two commissions all our studies published and what had not been published as yet. We showed these gentlemen all our films; we made all our files available to them, and also we gave them our separate prints. I drew up a report in five copies on the work which was being carried on, and made suggestions how to keep the institute going, and how our experience can be turned over to the hands of the American armies. We made detailed suggestions.

Q. Did you also tell those investigating teams that experiments on human beings had been conducted at Dachau?

A. I said.....

Q. That can be answered, yes or no, Doctor? Did you or did you not?

A. I told them about the work of my institute, and not of other institutes.

Q. That is what I understood. When did you join the NSDAP, Doctor?

A. I said, that was 1937.

Q. 1937. You were also a member of the National Socialist Physicians' Association?

A. Yes.

Q. You were a member of the National Socialistic Lecturers Association?

A. Yes.

Q. Now when did you come into the Luftwaffe? You say in your affidavit in August 1939. Now, what was the first rank you held in the Luftwaffe?

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A. I was Stabsarzt. That is the same thing as a captain.

Q. And then when were you promoted to major?

A. I believe around the first half of 1940. I don't remember exactly.

Q. Did you rise any higher?

A. At the end of the war I was Oberfeldarzt. That is equivalent to lieutenant colonel.

Q. That was the last rank you held in the Luftwaffe?

A. That was the highest rank, yes.

Q. When your institute was first formed, in 1940, was it -----

A. 1941.

Q. In 1941, what was the name of your institute at that time?

A. The institute was always called "Institute for Aviation Medicine, " Munich. "

Q. What was Luftgau Number 7?

A. The Luftgau 7 was the regional organization of the Luftwaffe. All Germany was divided into a number of Luftgaus, and Luftgau No. 7 was the one in the area around Munich.

Q. And were you under the jurisdiction of Luftgau No 7?

A. For economic and disciplinary purposes, I was under Luftgau 7. As head of the Institute, in scientific respects, I was under the Medical Inspectorate of Aviation Medicine, directly.

Q. That would be Anthony's office?

A. Yes.

Q. Well, now, in Luftgau No. 7, did they have a medical department?

A. Yes. They had a medical officer there. He was the Luftgau physician.

Q. Did they ever consult with you about any matters of research or things of that nature, between the medical department of Luftgau No. 7 and your Institute?

A. No. In scientific things we had nothing to do with the Luftgau, except in the rare cases when the Luftgau called upon us, for example, in the training course which Roscher writes of. In such cases we were called upon to help in the projects of the Luftgau, but the Luftgau had no influence on our research work. The research assignments, as I have already said, were in part according to directives which I received from the Medical Inspectorate, and sometimes I received definite assignments from the Medical Inspectorate.

Q. Well, now, did the medical department of Luftgau No. 7 have consultants or specialists on their staff; say, for instance, did the medical department of Luftgau No. 7 have internists, and things of that nature?

A. I would assume so, yes. All the doctors who worked at the Luftgau, had a certain field that they were in charge of.

Q. Suppose you wanted something done; suppose you were forming research, for a moment, and you wanted some particular work done for you in the course of your research which you could not do yourself because of the fact that you did not have a specialist in your organization to do it for you. Then who would you have referred to? Would you have referred to Luftgau No. 7 and asked them for an expert or asked them to take care of this particular situation that you wanted cleared up?

A. I can not imagine a case such as you are asking

You assume that the Luftgau gives me a research assignment?

Q. No, no, what I am trying to get at is this: Do you recall one of our documents concerning freezing, wherein Dr. Holzloehner, Dr. Finke and Dr. Singer were recommended to carry out---it is Document No 283, on Page 12. It is a letter from Rascher to Himmler, where he states that he has asked for permission---that is, Hippke has asked for permission---to carry out the cold water experiments in Dachau and asked that the following be engaged in these experiments. He says, one, Professor Dr. Jarisch, two, Professor Dr. Holzloehner, and then as well as the Luftgau pathologist, Dr. Singer of the Schwabing-Hospital. Well, now, what I am getting at is first, we must establish the position of Professor Dr. Singer. As you and I both know, he refused to do any work of that sort as soon as he discovered what it was, and now did the name of Professor Dr. Singer happen to be mentioned in this letter? Was he a consulting pathologist to our institute, or was he just a pathologist on the staff of the Schwabing-Hospital, or how did this occasion arise that Professor Singer was mentioned?

A. I'll answer your first question first. Professor Singer in his civilian position was a pathologist at Schwabing-Hospital. During the war he continued with this work, and at the same time he was a pathologist in Luftgau 7.

Q. In Luftgau 7?

A. In Luftgau 7. I personally had nothing whatever to do with Singer. My institute was quite independent in scientific respects. If I had ever had had any pathological and anatomical work to do, which was not the case, then I could have gone to Singer and could have

asked Singer, on the basis of his capacity as consulting pathologist, to help me in this work.

Q. Well, then actually Doctor, if you needed the services of Professor Dr. Singer, then you theoretically would go through the channel of Luftgau No. 7 and ask for his services as the pathologist in Luftgau No. 7; is that correct? He is a member of the Luftwaffe, so to speak. He is a part of your organization, the overall organization, and if you needed the services of a pathologist, then you would go to Singer; is that right? It would be because of the fact that he was in Luftgau No. 7, not a private physician in Schwabing-Hospital?

A. I personally could go to any pathologist who seemed suited, and in practice, in cases where I went to a pathologist at all, when I was interested in findings, for example, liver findings--what does the liver look like in people who have drowned in the cold, in such cases in practice I always went to Buechner because Buechner had specific experience in the field of cold, but theoretically I could have gone to Singer, too, or I could have gone to the Vienna pathologist, if I thought that he was especially qualified. I was quite unrestricted in that respect, but the routine pathological work went to Singer. Let's take an example. A man has been asphyxiated from gasoline fumes at an airfield. The case is not clear. There is an autopsy. This autopsy would automatically have come under Singer, or in Luftgau 7 an airplane had made an emergency landing and there had been injuries. That would have been Singers work. That had nothing to do with my institute. I was directly under the Aviation Ministry scientifically, and in practice it did not happen that I ever called upon Singer

for assistance.

Q. Well now, what kind of a man was Dr. Singer? He apparently was a substantial character, wasn't he?

A. May I ask what you mean exactly, in what respect?

Q. Well, it is apparent here from the evidence before us in this Tribunal that Dr. Singer had the opportunity to assist and to collaborate with Rascher and Halzlochner and Finke at Dachau, and apparently he refused to collaborate when he heard of the nature of the experiments, and being a pathologist, he must have known very well that deaths would occur or they wouldn't need his services, so consequently he would have no part of it. Now, I would like to know just what type of man Dr. Singer was. Was he a credible person? Was he a good physician, a good pathologist? Was he considered by yourself to be of good reputation, and so forth?

A. Yes, respecting his scientific capacity and his character, I never heard anything bad. In peacetime one of my internes, as you can see from my list of publications, wrote something on the heart and rather bronchitis at Singer's institute. I never heard anything bad about Singer's character, and he had a good reputation as a scientist.

Q. Did you ever hear of a Stabsarzt Onken, O-N-K-E-N, the adjutant of the medical department of Luftgau 7? Did you ever hear of that name?

A. I do not remember him personally. I do remember the name, though, but I can't remember today in what connection I heard it.

Q. Well, now, being the adjutant of the medical department of Luftgau No. 7, he would have some sort of jurisdiction, perhaps disciplinary, over your institute,

would he not?

A. The Luftgau physician did, not the adjutant.

Q. Well, that office would; the medical department would.

A. I just remember, Oken was adjutant of the Luftgau physician of Luftgau 7 for sometime.

Q. Well, now, who would be the superior of the medical department of Luftgau 7? Who did they in turn report their activities to?

A. All the Luftgaus were under the Medical Inspectorate.

Q. Then that would go directly to Hippke or to Schroeder?

A. The Luftgaus and the Luftgau physicians were under the Medical Inspectorate. As to what section that went, that depended on the subject matter.

Q. Well, now, would Becker-Freysong, to your knowledge of these activities, have had any interest in some of the reports and work of the medical department of the Luftgau, or would he be merely interested in the work of organizations such as yours?

A. To what extent collaboration between Becker-Freysong's department and the Luftgau physicians was carried out, I don't know; I can't say anything about this organization.

Q Now, Doctor, what was your feeling toward the Fuehrer? Were you an ardent Nazi?

A I have attempted to explain that. I will be glad to do so in more detail. In 1933 when the Revolution came and the National Socialism came to power, I was quite remote from any political activity and quite outside of any party. On the other hand, it was quite clear to most Germans at that time that it was a decisive struggle to decide which of the two armed parties would get control of Germany. In 1932, in Germany, we had three armed parties and these three armed parties all had their own party army, or their own party guard, and they fought each other. With power that surprised me, the National Socialists seized power. I was quite foreign to the ideas of the Party at that time. Because of the serious unemployment and the depression from 1930 to 1933, the party with an energy which again surprised me brought about an economic improvement which impressed very much not only me, but no doubt most people. I had the opportunity at the Olympic Games in 1936 to speak to quite a number of foreigners and there were quite a few people among them who were quite impressed by these economic improvements. I do not expect that a party fulfill all my personal ideas 100% in its program --

Q Well, Dr. Woltz, I don't think it is necessary for us to go into all this background; what I want to know is were you in favor of the Fuehrer or were you perhaps, or were you like Wolfram Sievers, a member of the Resistance Movement?

A No, I was not a member of a Resistance Movement and as far as my relations with the Fuehrer are concerned, I can only tell you that it changed a number of times according to my knowledge of things and persons.

Q When did this attitude take place, in 1938, '39, '40, '41, '42, '43, '44, or '45, just when?

A The year was 1939; for the first time I realized that the big line of policy which Hitler had promised had been wrecked. That was when the war broke out. Of course, then came successful campaigns, which I was glad to see as a German. Then very soon I realized that in spite of these successes the war was lost for Germany, because I knew very well the American Air Force Construction program. I know a great many figures of them and I did not understand then, from the year 1941 on, that this danger was not clearly seen and that the people were so optimistic. Before Stalingrad, I realized that the whole campaign in the East was a failure. Perhaps I may mention something that helps my memory. Before Stalingrad, when we occupied Stalingrad, but when the offensive had not started yet, I bet Mr. Lutz a bottle of cognac, that we would have to leave Russia, while Lutz thought we could keep all Russia up to the Ural. I just happened to remember that. Now, as the war became more and more senseless, from 1941 on at the latest, my attitude toward the party became more hostile and in the last years it was definitely antagonistic. Now, for a man in my position without special connections, without special information, it was rather difficult to do anything, not only because things were dangerous - we experienced all kinds of dangerous things during the war - but the primary difficulty was that one should have a sensible goal. I tried to - please don't think this is a claim that I belonged to a Resistance Movement; I just want to tell you about it - I had a small group of officers who believed as I did; I gathered them around me. We

discussed the situation in a way that was different from other officers of the hospital. It was clear that the war was lost and all the talk of new weapons were nonsense and bluff, but none of us succeeded in setting up a sensible program which might have had any prospects of realization. They were extremely difficult things, because everyone realized that any Putsch at all would just mean the collapse of the war and above all that of the Eastern front and what that would mean we saw clearly. We thought about it a great deal, of course. We didn't like to see cities like Munich and Nurnberg suffering from one air raid after another, being slowly destroyed.

Q Before you got into the later phase of the war, in 1938 when Germany started to invade countries, they invaded Austria and various other countries, from then on, what was your feeling then about the Fuehrer? Were you still willing to follow him when he was invading Austria?

A We in Southern Bavaria experienced the invasion of Austria rather closely and the impression which we had then from all the Austrians coming over was not the impression that of a poor country being attacked. Before that I had been in Austria myself and as a neutral observer, I had an opportunity to meet people in Vienna. There was no doubt whatever that in Austria at that time there were a great many people in favor of the Anschluss. If there is an opinion to the contrary today, that is a distortion of history, undoubtedly.

Q Then, didn't you see that when the Fuehrer was taking these forward steps that war was inevitable?

A We hoped that through the Munich Conference, this danger of war would be eliminated and I was very happy

about the agreement which was reached there.

Q You were of the opinion, were you not, at that time that Adolf Hitler was the greatest man in the world for peace, weren't you?

A At that time I considered Adolf Hitler an important politician who had the aim of the United States of Europe and was taking up against a tradition which had failed with Napoleon. We realized that the split of Europe into many small countries in relation to the large spaces of America and Russia was an intolerable situation and that we had to create a unified Europe in order to exist, and that was Hitler's aim, and that was an aim which I approved of.

Q Now, Doctor, in 1941, we see the first evidence of experimentation on human beings, that is, the first thought about it, here before this Tribunal, by virtue of the Rascher Document 1602-PS, which is now in Document Book No. 2, that is a substitute for the one that is in the document book, Your Honor, which is dated the 15th of May, 1941. Now, you, in the course of your direct examination, have discussed the feasibility of Rascher's proposition here and I would like to know what was the first time that plans or thoughts or any scheme for experiments on human beings for high altitude research upon concentration camp inmates was brought home to you?

A I believe, I said that in my direct examination as well as I can. Before the discussion with Hippke.

Q Just a moment. The discussion with Hippke was when? When was that?

A On one of the longest days of the year. I remember, that I drove Hippke home in my car and it must have been one of the longest days of the year since it was still

light when we went home.

Q That would have been in June or July?

A I assume that it was the end of June, and Kottenhoff shortly beforehand had spoken to me for the first time about Rascher's plans and when Kottenhoff and Hippke were talking I already knew that Rascher had approached Kottenhoff, and had made these suggestions to him. It was nothing new to me when Kottenhoff told Hippke about it. Kottenhoff had told me beforehand.

Q It must have become known to you about the same time as Rascher's communication with the Reich Fuehrung, that is the 15th of May, 1941, is that the correct assumption?

A No, what Kottenhoff told me was considerably later. That was shortly before the talk with Hippke.

Q Now, actually when this knowledge of the intention to use concentration camp inmates was brought home to you, that was perhaps the first of June 1941, not in May 1941, but in June, before the meeting with Hippke, is that right?

A I can't give you any more exact information about it than I already have. It was shortly before the talk with Hippke that Kottenhof told me about it for the first time, but I certainly did not hear of it after. I assume that this was May when Rascher was taking this course. I knew nothing about it.

Q Well, now where did Rascher take this course?

A When?

Q Where, where?

A The course was in the building of the Luftgau Command in Prinzregentenstrasse.

Q Was that near your institute?

A No, my institute was in the west, in Pettankoterstrasse, in the University quarter, and the Luftgau building is somewhere else.

Q Who was giving this course? Was Kottenhof the instructor?

A No.

Q What were Kottenhof's duties?

A Kottenhof's permanent function was an expert for therapy welfare with Luftgau Physician No. 7, I believe. Who gave this course - Luftgau 7 was responsible for it. Who actually gave the course, - I don't know. In any case Luftgau 7 organized the course and had a number of lectures for this course, and set up a program for the lectures. I remember for example Buchner, Kottenhof and myself lectured there. I believe that Singer did too, and some neurologist, whatever lecturers were available to this Luftgau and the neighboring Luftgaus, they were asked to assist at this course, and it was rather an extensive program.

Q Well, then Kottenhof had no connection with your institution?

A Not at this time, not officially.

Q Well, when did Kottenhof first have connection with your institute?

A With my institute for aviation medicine, Kottenhof never had any official connection.

Q You have introduced a lot of documents here about the knowledge of Kottenhof concerning these matters, and you mean to say Kottenhof had no connection whatever with the institute?

A Kottenhof was at my civilian department at the University in 1936 before the war.

Q Was he ever in your Luftwaffe Institute, did he ever come there and pay you a visit?

A No.

Q He never did?

A He was not a member of it, but of course he did visit me once in awhile. He had no official relation with it.

Q Well, then Kottenhof was the first one to inform you about the intentions to use concentration camp inmates, was he?

A Yes.

Q He got his knowledge from Rascher?

A Yes.

Q Then when Rascher referred to his confidential talk with a representative of the Luftgau physicians, do you assume he was referring to Kottenhof, in this Document 1602 PS?

A I assume so for two reasons, first of all Kottenhof told me about it afterwards. That he had talked to Rascher. And secondly, it seems to me the letter indicates this, the remark about monkey experiments. I have already said that Kottenhof, as a visitor at my civilian section, had performed these experiments on monkeys and he had reported the results of these tests at this course at Luftgau 7.

Q Well, now, let's go on. How did Hippke happen to come into the picture? What was this conference in June 1941 wherein the occasion arose for a discussion concerning experiments on inmates of a concentration camp; first of all where was the meeting?

A It was in the Proysing Palais in Munich. It was not a conference, but as I said before, Hippke happened to be, for reasons I do not know, a visitor to Luftgau 7 and expressed the wish to see a few

of us in the evening. We were all in civilian clothes. We were perhaps 15, including the Luftgau physician and these 15 gentlemen gathered in the Freysing Palais, and we dined with Hippke.

Q You were there?

A Yes.

Q Hippke was there?

A Yes.

Q Kottenhof was there?

A Yes.

Q Was Rascher there?

A No, he was not.

Q Was anyone else there whom we have mentioned here in this trial?

A Nobody. Of the people mentioned here in this trial I do not remember anybody I don't believe.

Q Was Lutz there?

A No.

Q Was Wendt there?

A No.

Q Now, will you kindly tell us how the discussion happened to arise concerning experiments on human beings in the concentration camps? Who brought up that subject?

A I believe I reported this already. Early in the evening, Kottenhof was sitting at the top of the table, and I sat on Hippke's left. Kottenhof joined us and sat between Hippke and myself, and brought up this subject to Hippke. He asked him what he thought about all this and Kottenhof told Hippke that Rascher had approached him with these plans to experiment on criminals and this idea he reported to Hippke and asked him his opinion.

Q Well, now at this time what did Hippke say, can you remember as nearly as possible just what Hippke said about it; what was his reaction to it?

A At first Hippke was rather reserved. He didn't say very much. Kottenhof thereupon gave a few reasons, as I have said before. He said for instance this matter would be also to the advantage of the criminals and Hippke saw the point there -- he also described that they said this and that. Hippke didn't say no, but he also emphasized that experiments by doctors on themselves must be the basis. However, the conversation was very unsatisfactory, and reached no conclusion, and as I said before the definition seemed a very unfortunate one. We talked past each one and at cross-purposes, and therefore I thought I should show by a practical example what I thought would be permissible and what would not be permissible.

Q Now, did Hippke ask you, inasmuch as you had an institute and were an expert in this field, did Hippke ask you "Professor Wetz, is it necessary to resort to concentration camps in order to conduct these experiments?"

A No, he didn't ask me that. The purpose of the conversation was the fact that Rascher had approached Kottenhof, had made this offer and the question of whether the offer should be approved or not was the topic of the conversation, and I said before no concrete experiment was being discussed at that point, that they should begin next month, and that they should be high altitude experiments. It was a theoretical conversation whether such things were permissible and under what conditions they would be permissible. That was the basis of such a conversation.

Q From what you say it would have been possible for you and Kottenhof and Hippke to have nipped in the bud any experiments on human beings in Dachau at this meeting in May 1941, wouldn't it have?

A Now today as I know the facts I am not inclined to think so, because the reason why experiments were carried out was the fact that Rascher had approached Himmler and Himmler had given permission.

Q What was Rascher's rank in June 1941?

A He was Oberarzt or Stabsarzt of the Luftwaffe, I am not sure.

Q What kind of a uniform did he wear, the Luftwaffe or SS?

A When he came to see me he wore a Luftwaffe uniform.

Q Who was chief medical officer of the Luftwaffe?

A That was Hippke at the time.

Q Doesn't the chief medical officer of the Luftwaffe have authority to transfer any member of the medical services of the Luftwaffe subordinate in rank to him to another place?

A Yes, he had that authority.

Q Well, now, did you discuss at this meeting of June 1941 whether or not volunteers should be used?

A Yes, as I said before that was the basis of the whole conversation.

Q I see, and then you discussed the volunteers and then you discussed the necessity for the experiments, I presume?

A Yes, and also all the points which Rascher kept bringing up as to professional criminals, volunteers. These points were reported to Hippke by Kottenhof, just as Rascher had told him himself, because those conditions were being discussed.

Q Didn't it seem a little ridiculous to Hippke who was a rather well-educated man to have to resort to concentration camp inmates? After all, all you were going to use volunteers, you could perhaps get volunteers in Munich, when the low pressure chamber would be used in another place, rather than get men in the concentration camps and use men who were not well-fed and not up to standard, and you would have to bring them up to standard to use them? Didn't Hippke have something to say along those lines?

A All I can say about that, Kottenhof asked Hippke to define his attitude about Rascher's offer. It wasn't that we were short of volunteers in the Luftwaffe. Rascher had made the offer to Kottenhof, and Hippke was, at Kottenhof's request, to define his attitude toward that offer. That was why we had our talk that evening.

Q Did you define your attitude at the same time; you certainly

must have given your attitude?

A Yes, I certainly did. I did not interfere in the conversation at first, but when the definition seemed to be a little vague I expressed my attitude on the basis of the Goldberger de Kruif examples.

Q Then you were in favor of instituting this experimentation on the human beings in the Dachau concentration camp after the qualifications you have outlined, namely volunteers and habitual criminals, and a pardon to be granted; that is, if those qualifications were to be carried out you were in favor of it, were you, at this time?

A As far as I was concerned I never had the desire to make any experiments and the whole question would not have come up to me if I had not been faced with the necessity to define my attitude about the whole problem. The whole problem as to whether or not there would have been experiments in Dachau would not have arisen as far as I am concerned, if I had not been pushed into the whole thing by the fact that Rascher headed my institute, and I therefore had to define my attitude.

Q What was your feeling when you went away from the meeting in June 1941, was it your feeling or Kottenhof's feeling, that Hippke would be agreeable to experimentation on human beings at Dachau?

A I think I said this in detail, Hippke pointed out that the basis for research in the Luftwaffe must be experiment on ones self, except of course for certain experimental purposes when conditions which we could regard as impeccable, if those conditions prevailed then he could give his approval in those exceptional cases for those experiments to take place.

Q Well, now, we will leave the meeting of June 1941 and go on. When did the occasion arise for action on your part to lay the groundwork for the experiments to be conducted at Dachau?

A I believe I described all this.

Q Describe it again. I am going to give you the opportunity. When or what date did Rascher approach you or you approach Rascher and

did you meet with Hippke or did you meet with Himmeler or whom did you meet to decide you would carry out experiments at Dachau that necessitated you inviting Dr. Ruff and Dr. Romberg to collaborate with Rascher and yourself, now when did this take place?

A In the course of the summer Rascher himself came to me and proposed to me, as I have described, to try out this slow ascent. I also described how this proposition seemed to me not debatable. I turned it down for the reason which I said before, it was not necessary. Kottenhof did not like the offer very much, for different reasons.

Q Now, why did Rascher come to you, he was not a member of your institute then?

A No, he was not a member of my institute, and I can only assume, as I said before, I assume, and I can say it with certainty, because Rascher said so himself later on, at that time Rascher intended to qualify as a lecturer. And the only place where aviation medicine was dealt with in the Luftgau, and had any connection with the University was myself. There was no other agency there where Rascher could find connections with aviation medicine on the one hand and a university on the other. The testing station and I myself was the only agency and I think that must have been the reason why Rascher came to me.

Q Now, did you have a low pressure chamber right in your own institute which was in the building, in the courtyard, in the building of Physiology of the University of Munich; didn't you have a low pressure chamber there?

A Yes, we had a low pressure chamber of our own.

Q Is that perhaps the reason Rascher came to you, because you had a low pressure chamber?

A I am not quite clear on that point. Rascher didn't tell me this, and I cannot even today quite imagine whether Rascher knew we had a mobile low pressure chamber, or whether he thought

the Dachau people would come to us in Munich. I don't know what idea he had at that time.

Q Will you kindly repeat slowly in German the official name of your institute?

A Institute for Aviation Medicine, Munich.

Q Well, now, Document 1602 PS; will you kindly turn to that document. That is the new version, the complete translation. In 1602 PS on page 1, Rascher refers to an institute, the name is in German. Due to my incapacity in the German language I am unable to pronounce the words. I will request the interpreter to repeat, in 1602 PS, it is about seven or eight lines up from the bottom in quotations, the name of the German institute; will you kindly read that to Dr. Weltz.

(Interpreter reads: Bodenständige Pflanzstelle für Höhenforschung der Luftwaffe.)

Q Now is that your organization?

A At that time, on 15 May the institute for aviation medicine had not come into existence. It was founded in the autumn. At that time I was the head of the Testing Station four, which I described in detail.

Q This testing station here, that is referred to here, that is your organization?

A That is quite obvious Rascher means here, I have no doubt...

Q I am not concerned here with an explanation. I am not asking his organization, I am asking you was that the name of your organization; Lutz said it was, now do you say it is?

A At that time I was the head of the Testing Station four, for high altitude effects.

MR. HARDY: Your Honor, I have asked the witness three times whether or not this is the name of his organization. It only requires a yes or no answer, and I request the Tribunal to instruct the witness to answer my question.

A I am about to say in this case that Rascher chose the title wrongly. My institute was called something else.

Q Then this does not refer to your institute?

A No, I wanted to say that although Rascher used the incorrect title, but that I myself have no doubt he means my institute.

Q Then he means your institute?

A Yes, there is no doubt at all.

Q Well, then here on 15 May 1941 why is Rascher referring to your institute when he himself has not as yet contacted you concerning this problem, according to your testimony?

A I know nothing about that, because I was not in contact with Rascher at that time. The letter became known to me only here, and I can only assume that Rascher imagined it like this and Himmler had to give him permission first, and then he assumed that we all of us would say as soon as he had Himmler's permission. One thing is certain I could not talk to him at the time because I would not have been in a position to give him permission. That would have been up to the Medical Inspector and I therefore did not give him permission.

Q You had a low pressure chamber early in 1941, as a matter of fact you may have had it earlier?

A Yes, since 1938, I believe.

Q And that low pressure chamber was burned down in 1944 in your institute?

A Yes.

Q As a matter of fact the metal pots are still there, the pots that didn't burn?

A I think so. I assume that.

Q Now, when you moved your institute to your new location did you then build another low pressure chamber?

A Yes.

Q When did you begin work on this low pressure chamber?

A In 1944, but that chamber was never completed, and was never used.

Q However, from 1938 until 1944 you always had a low pressure chamber available?

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A For all practical purposes, there was only the Munich low pressure chamber which was used, and it was used since 1938, I believe, up to the point when it was burned.

Q. I see, and you have stated here a moment ago that you could have got plenty of volunteers through the Luftwaffe, didn't you, that is, that wasn't the question. You stated in the meeting of June 1941 wherein Kottenhoff told Hippke about Rascher's proposal, namely Rascher could get subjects and permission from Himmler to work in Dachau, you stated that the purpose of your discussion there was to merely extend this proposal of Rascher's to Hippke for his consideration, and, then you stated, that of course the Luftwaffe could have gotten plenty of volunteers had they wanted to. Now do you wish to correct that statement or are you of the same conviction, that you could have got plenty of volunteers without resorting to the proposal of Rascher?

A. I believe in my direct examination I spoke quite clearly about this. Of course, the extent of the task is very important whether I have enough volunteers or not, how many volunteers there were in the Luftwaffe, I already indicated, I gave a few names and in our case, in my immediate sphere, especially as we were concentrating on animal experiments on the whole, there was never any wish expressed to use inmates as experimental persons. Our program never lead us to this wish.

Q. Kindly answer my question. You have gone astray again. Could you have got, if you had wanted to, for any experiments in low pressure or whatever it may be, ten to fifteen volunteers without resorting to inmates of concentration camps?

A. That depended on the task, what the people were expected to do.

Q. The people were expected to go through these harmless high altitude experiments, now could you get

ten or fifteen?

A. It depended entirely on what I wanted the people to do and how much time they had and how much I was justified to demand of their time. Surely, it is obvious that sometimes I could get students and sometimes I couldn't. In my sphere in any case, within my program there was no necessity to fall back on prisoners because we did not have a program which would make that necessary. Now in Ruff's case it was quite different.....

Q. Just a moment Doctor; you have stated now when I asked you concerning the meeting in the summer of 1941, why this discussion arose, and Hippke was there, about these matters, and you have volunteered the information to us that it wasn't necessary to discuss it because we could have gotten all the volunteers we wanted to, but this was merely a manner in which Kottenhoff wanted to present this proposal to Hippke for consideration. Now you made the statement: We can get all the volunteers we want to. Could you get ten or fifteen volunteers if you, Dr. Woltz, had decided you would like to experiment in high altitude research on human beings, could you yourself have obtained these many volunteers you spoke about?

A. Probably not, I didn't try - but -

Q. Then why did you say you could in defense to that other question here some hour ago?

A. I said the question would not have arisen as to experimental persons if Rascher had not brought up that subject and forced us to define our attitude toward that problem. That is what I said.

Q. Well then you had a low pressure chamber available in your institute in 1941, didn't you?

A. Yes.

Q. And volunteers could have been made available, could they?

A. It depends upon what for and to what extent.

Q. Well I am asking you specifically: Do you think at that time you could have got a volunteer to volunteer, a volunteer to volunteer for high altitude experiments as outlined by Ruff and Romberg and Rascher at the concentration camp Dachau?

A. Without any difficulty.

Q. Then you could have got ten or 15 volunteers without any difficulty?

A. That is more difficult.

Q. Well, let's don't get involved, why in the world did you then enter into a conference with Ruff, Romberg and Rascher to go to Dachau and make all of these arrangements and spend all of this valuable time during war time when you could do other research, when all you had to do was to go out and get ten or fifteen volunteers and say now Ruff here is the low pressure chamber and ten or fifteen volunteers, go to it? It was just as simple as that, wasn't it?

A. First of all I should correct here that the experiments could not have been made with our low pressure chamber because our model was a different one.

Q. It could have been made with your low pressure chamber couldn't it?

A. The experiments made by Ruff and Romberg could never have been made with my low pressure chamber.

Q. Couldn't you have made ten or fifteen subjects available to Ruff and Romberg to be used in their pressure chamber, bearing in mind, if course, that the

low pressure chamber stoped in your institute overnight you could have merely held it there and said to them now here are ten or fifteen subjects, you make your experiments right here. It would have avoided all this confusion, wouldn't it, and you could have seen what went on in these experiments, because you wouldn't have had to have a pass to get into a concentration camp, isn't that true?

A. No, this is not true, because first of all our low pressure chamber was unsuitable for these experiments, because it did not have sufficient capacity. Secondly, if I had had the experimental subjects in Munich, Ruff in Berlin would not have had any advantage of that, and thirdly, the situation as far as I was concerned was this; That I had to define my attitude to Rascher, and moreover Rascher had orders from Himmler, in which he was ordered to come to my institute to carry out the experiments.

Q. Just a moment now, Rascher wasn't in the SS, was he? Rascher was in the Luftwaffe. Let's straighten that out now. In 1941 at the time of these activities and this planning of the experiments at Dachau, Rascher was not in the SS, am I correct? Please correct me, Doctor, if I am wrong.

A. At that time Rascher was in the SS and was also a Stabsarzt in the Luftwaffe.

Q. He was on active duty in the Luftwaffe, wasn't he? Don't we have a lot of correspondence here wherein they are bickering back and forth about Rascher?

A. He was an SS officer and in the Luftwaffe.

Q. In the Luftwaffe?

A. Yes in the Luftwaffe.

Q. I have to study the documents. This is now to me. Now in December 1941, you proceeded to Berlin

to see Ruff?

A. Yes.

Q. Prior to that time you had discussed these experiments with Lutz and Wendt, hadn't you?

A. No, that is not true.

Q. Lutz said you had.

Q. Yes, I had discussed it with Lutz and as I said in my direct examination I told Lutz about this conversation with Hippke and we carried on that conversation and discussed the possibilities for and against the problem. I did not speak in detail to Wendt. I don't recall at all having discussed it with Wendt.

Q. Well now Lutz testified you offered him an opportunity to collaborate with Rascher?

A. Well, I dispute that.

Q. It became apparent sometime before December 1941, or maybe in December 1941, that Rascher was to conduct experiments at the Dachau concentration camp, didn't it?

A. Rascher wanted to carry out his experiments in Dachau.

That became clear when Ruff accepted my proposition.

Q. Why would you have offered Ruff a proposition if there hadn't been some discussion about it before then?

A. I do not understand that question.

Q. You invited Ruff to collaborate with Rascher. How did you happen to have knowledge, how did you happen to know Rascher wanted somebody to collaborate with him, what did you go up there for? Did you have a vision suddenly and decide he wanted to have some experiments and say to Ruff: Do you want to collaborate with Rascher I will assign you to him? Didn't you have some sort of a meeting with Rascher beforehand and have some sort of a plan? You wouldn't have invited Ruff and Homberg to assist you if you didn't have some sort of a plan. It didn't just come out of thin air, did it?

A. I thought I had described this sufficiently. Probably in November 1941 Rascher was ordered to my institute without my doing anything about it, without my knowledge even, and now he was a member of my institute and he had an assignment from Himmler to carry out these experiments, and I did not know what to do with him, that was the situation.

Q. Now we are getting to it. In November, 1941, Rascher was assigned to your institute, wasn't he?

A. I assume that, yes.

Q. He became your subordinate in the Luftwaffe, didn't he?

A. As it was called technically he was ordered to work in my institute.

Q. And he was your subordinate? When you are in the Luftwaffe or any other branch of the Wehrmacht before you can put a man from one job to another it is necessary to order him, he has to have written orders, the same in the German army as in the U S Army or in the Navy or any other army, and so Rascher received orders wherein he was trans-

ferred to the Institute Wetz, wasn't he, and he became your subordinate? Let's not quibble about it, doctor.

A. Yes, that is his position.

Q. Then Rascher had an assignment wherein he could, if he so wished, use subjects of the concentration camp Dachau, is that right?

A. Yes.

Q. He could have equally as well have accomplished his objective by using volunteers other than volunteers of inmates of Dachau concentration camp?

A. That depends on what Rascher's aim was. Rascher did not have an aim at that time. That was the difficulty. He proposed experiments to me for which Himmler wanted to use the experimental subjects, and I did not approve of Rascher's aim and that was how the unhappy situation, as far as Rascher was concerned, arose. On the one hand he had Himmler's permission and on the other he had no aim to do anything with that permission, and he proposed to me this slow ascent experiment, which I turned down.

Q. When was that, in November 1941?

A. That proposal he made to Kottenhoff when he met him for the first time.

Q. Now what proposals did he make to you after he became your subordinate in November 1941?

A. When in November 1941 he became my subordinate and when I had turned down his first proposal, he then, as I said before, he then made a proposal to me for the cold experiments to be carried out in Dachau, and that I also turned down, as I said before.

Q. Well then when did he propose that he wanted to use the low pressure chamber? He must have proposed it some time in November—when?

A The use of the low pressure chamber?

Q Yes.

A His first wishes to make high altitude experiments were based on the fact that a low pressure chamber must be used, but we never reached that point in our conversation because, from the beginning, I said "We shall not make those experiments" and Rascher had no reason to ask me what low pressure chamber to use.

Q Let me ask you a question. Did they perform some experiments in Dachau on high altitude from your knowledge, from sitting here in the dock for five months? Did they?

A Yes.

Q Well, now, who proposed them? In November, 1941, Rascher came to work for you, as your subordinate in your institute, ordered there by the Luftwaffe. It was only the Luftwaffe which could change his assignment because he was a member of the Luftwaffe. Now, when did he propose these experiments? If he didn't propose them, then Weltz proposed them and went to get Ruff and Romberg. Now, why did you ask Ruff and Romberg if somebody didn't propose these experiments? Who proposed them in November, 1941? You had rejected his other proposal earlier on the slow descent proposition. Now then, did he extend a new proposal to you in November, 1941, or by what token did you step forward and invite Ruff and Romberg down to Dachau and get those two men in all this trouble? Now, how did that happen?

A I believe I described this in detail. I say once again that in November, 1941, that Rascher came to my institute. He made the new proposal to have cold experiments. I then told Rascher that "we are not interested in cold experiments. Our animals are quite sufficient here. There's no point to it." Then I described how, by chance, when I was on a trip to Berlin, I visited Ruff and Ruff told me of the difficulties of his own program and other difficulties which he had with experimental subjects. I, in turn, told Ruff that Rascher was hanging around my institute and I did not know what to give him to do;

that Rascher had permission to make experiments in Dachau; and, thereupon, I proposed to Ruff to have his experiments carried out on the basis of Rascher's permission in Dachau. Surely I described this all in detail, and Ruff did too.

Q Now, I have listened with great interest to what you have just said. Do you want to think for about one minute and confirm to the Tribunal that that is how the experiments started at Dachau? That is just the answer I wanted. Now, think about it a minute and will you confirm to the Tribunal that that's how the experiments started in Dachau.

A The experiments came about that I said that on a trip to Berlin, I talked to Ruff, that I told Ruff that there was a possibility to have experiments carried out in Dachau and that Ruff, in turn, told me how short he was of experimental subjects. That, I think, is all I have to say in this connection.

Q That's perfect, Doctor. We won't have to discuss that any further.

Now, after you talked to Ruff, then you set a date for a meeting, didn't you, in Munich, and this date for a meeting in Munich took place when? When was that date? When did it actually take place in Munich?

A I cannot give you the date. I assume that it must have been in December. Perhaps the middle of December, 1941.

Q That was also in December that they went to Munich? You went to Berlin in December and they came to Munich in December, is that right?

A No, I'm sorry, I made a mistake here. I assume that the conversation in Munich took place in January. I slipped there.

Q All right. Now, Ruff and Rosenberg were invited to participate in these experiments with Rascher by you because they were experts on the subject, is that right? You wanted some experts to work on this. If you were going to use inmates of the concentration camp, you decided

you would like to have experts doing it, and that's your reason for asking Ruff and Romberg to collaborate with you and Rascher, is that it, because these men were experts in the field?

A That is a distorted description and Ruff and Romberg's affidavits are on the basis of this, and in their cross examination they have corrected their affidavits. It is a distorted way of putting it to say that I had called in the experts Ruff and Romberg to my experiments. How it really happened was I offered to Ruff whether he wanted to make experiments with Rascher. Romberg, in turn, had decided on the program. The program was not my contribution. And on that basis, the collaboration occurred.

Q And, in the event that you had not offered this to Ruff and Romberg, then Ruff and Romberg would not be in this dock today, would they?

A I assume so.

Q Well, now, the hurdle I am trying to get over is that Mr. Lutz says you offered it to him. Of course, you deny that. And he refused, and gives very elaborate reasons for his refusal in that he wasn't strong enough — that is, in his heart — to perform these experiments on human beings. And the hurdle I am trying to get over now is the statement you made on direct when you said that such a play on words by Lutz was ridiculous; that you had never noticed Lutz to be religious or to have any misgivings about such things and you made a statement which has bothered me considerably wherein you state: "I would have reminded Lutz of things which make this answer ridiculous." Now, was Lutz mixed up in something criminal? What was this here that would have made his answer ridiculous?

A Lutz' reply would have been ridiculous according to the views held at the time by Lutz on the overall situation. Lutz, at that time, was an ardent advocate of total war with all means and his conception roughly was — I now speak of 1941 — he realized that the war would be a hard and severe one and he was of the opinion that this war

must be fought with all means at our disposal. At that time he used the following expression quite frequently, the expression: "If we are to win this war we, in Germany, must use shooting in the neck more frequently." I think Lutz didn't mean this literally. What he meant was perhaps this. He believed that we, in Germany, were sitting between two chairs. On the one hand, the democratic methods with which you could wage war successfully we had got rid of, and, on the other hand, he thought that the total warfare methods which we saw embodied in Russia had not been introduced 100%, and that was his opinion that he expressed in the words that "In Germany, we should shoot people in the neck more." Just at that time and just before, there were small differences between Lutz and myself on the point that Lutz used his elbows quite a bit. I tell these things which are not of vast importance - I am not very keen about telling these things about my assistants - but if it helps to clarify these things I have to tell these things. If ever I had small difficulties with my subordinates-it occurred rather rarely - it was always on the point that Lutz used his elbows too ruthlessly. Later on, he had a difference with our charwoman, and when I sent him on an assignment he had arguments when he misbehaved rather awkwardly with the Gauleiter and I had to rescue him from a very heavy difference of opinion with the Gauleiter which was not without considerable risk as far as I am concerned.

Q So now, Doctor Weltz, these little incidents of Lutz' personality - what you refer to as making his refusal to participate in human being experiments in Dachau ridiculous - is that what you base it on? That slim evidence of his character? You base it on that?

A A man who tells me that "more people should be shot in the neck in Germany" cannot tell me in the same breath "I am too soft-hearted. I am not robust enough." I must say I would have declared that ridiculous. I don't know that that is only my opinion.

Q Well now, in this meeting in January, 1942, wherein Ruff and Romberg attended, who else was present at the conference?

A Present were, at that conference, Ruff, Romberg, Rascher and myself.

Q Ruff, Romberg, Rascher and yourself, yes?

A Yes.

Q And Lutz was not there?

A I described this. Rascher was late. Ruff and Romberg were present. Before the conference opened we talked in my room on different matters and when Rascher arrived - he had a car accident - and made apologies and when Rascher finally turned up I told these gentlemen "Thank you very much. I wish to begin now" and began the conference, and the gentlemen left my room.

Q I see. Then Lutz' testimony that you told him you were going to have a conference and that you didn't want him in the room is true, isn't it?

A Yes, it is.

Q This is a good breaking point, Your Honor.

THE PRESIDENT: The Tribunal will be in recess until 9:30 tomorrow morning.

DR. FROESCHMANN (Defense counsel for defendant Brack): May it please the Court, may I ask the Court's indulgence for two minutes? In the course of the trial the following witnesses have been proposed: Wolff, Dietrich, Seivert - I am defense counsel for Brack - Wolff, Dietrich, Seivert, Hederich and Pfannmueller. I have decided not to use Seivert and Hederich. Wolff was turned down as a witness. Now, there is a difference between myself and the Secretary General about the two remaining witnesses: Dietrich and Pfannmueller. They should be called into the witness stand as witnesses. I would be grateful for a ruling of the Court to allow me those two witnesses on the stand.

MR. HARDY: May it please the Tribunal, I may be able to help you here. I don't know the status of Pfannmueller right now. The Doctor does. But I turned Pfannmueller over to the German courts for trial some two months ago and I don't know whether he has departed from

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Nurnberg yet. They are proceeding very rapidly. He may be here now -
I don't know that - but I assume that he is in Frankfurt awaiting trial.
I don't know whether he will be available for this Tribunal.

THE PRESIDENT: Well, if counsel for the defendant Brack and
the prosecution will come to my office immediately upon this recess,
we'll discuss the matter with them there.

(A RECESS WAS TAKEN UNTIL 0930 HOURS, 8 MAY 1947).

Roll 8

Target 2

Volume 20

May 8-14, 1947

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

CASE No. 1 TRIBUNAL I

U.S. vs KARL BRANDT et al

VOLUME 20

TRANSCRIPTS

(English)

8-14 May 1947 pp. 7193-7574

1947
May 8-M-BK-1-1-Foster (Int. Brown)
Court No. 1

Official Transcript of the American Military
Tribunal in the matter of the United States
of America against Karl Brandt, et al,
defendants, sitting at Nurnberg, Germany, on
May 8 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the courtroom will please
find their seats.

The Honorable, the Judges of Military Tribunal I.
Military Tribunal I is now in session. God save the
United States of America and this honorable Tribunal.
There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the
defendants are all present in the court.

THE MARSHAL: May it please Your Honor, all defendants
are present in the court.

THE PRESIDENT: The Secretary General will note for the
record the presence of all the defendants in court.
Counsel may proceed.

DR. GEORGE WELTZ - Resumed

CROSS EXAMINATION (Continued)

BY MR. HARDY:

Dr. Weltz - -

THE PRESIDENT: Counsel, just one moment.

The Tribunal desires to meet three members of the
German counsel, to be chosen by the German counsel, at
a quarter before four this afternoon in the Judges'
anteroom to discuss the matter of the time to be
allowed counsel for argument at the close of the case.
If counsel for the defendants will choose a committee
of three to meet with the Judges this afternoon at a
quarter before four, the matter will be discussed.
Counsel may proceed.

CROSS EXAMINATION (Continued)

BY MR. HARDY,

Dr. Weltz, at the close of yesterday's session we

had taken up the meeting in Munich in January 1942, and you stated that Ruff, Romberg, Rascher and yourself were present at that meeting. Now, between the meeting in Munich and your meeting with Ruff in Berlin, did you then inform Rascher that you had successfully received the support of Ruff and Romberg, so that Rascher then could carry out work in high-altitude research at Dachau?

A. Certainly, otherwise Rascher would not have come to this meeting. I had to invite Rascher to this meeting, and one of the purposes of this meeting was to acquaint Ruff and Romberg with Rascher.

Q. Now, after the meeting had assembled I presume that you had one or two steps to consider. First of all, did the four of you discuss the necessity for the experiments, bearing in mind, of course, that all four of you were familiar with this field of research, Ruff, Romberg and yourself being more particularly experts in the field.

A. We acquainted Rascher with the program; Rascher in his turn told us what the conditions were. He showed us the Himmler letter that has been mentioned here; and the program was already laid down. There was no further discussion of the program. The program was already clear at Adlershof.

Q. This letter that you have referred to, that Dr. Romberg referred to, did you have the opportunity to read that letter of Himmler's?

A. Yes, Rascher showed it to us in this meeting.

Q. Can you substantially tell this Tribunal just what that letter contained?

A. The letter contained the statement that Himmler gave his permission for experiments in Dachau, that these

experiments were to be undertaken on habitual criminals, that these habitual criminals were to be volunteers, and that they were to receive a suitable mitigation of punishment. All these facts were certainly set forth in the letter.

Q Well, now, doesn't it seem strange to you, Dr. Woltz, thinking logically for the moment, that Himmler in his letter authorizing Rascher to conduct experiments at Dachau, would have interposed the remark in his letter that the subjects to be used must be volunteers, in view of the letter of 15 May 1941, wherein Rascher wrote to Himmler and told Himmler that volunteers could not be had and that it was necessary that criminals be set aside for use in these experiments?

A Of course, I don't know what Himmler and Rascher discussed, but if I can speculate on this subject, I should think that it obviously became clear to Rascher that the question of the volunteers played a great role when he talked to Kottenhoff. Kottenhoff expressed to Rascher scruples to the effect that criminals were not the persons for the experiments that Rascher and Kottenhoff were planning, because they could not be volunteers in effect. In the experiments planned by Rascher and Kottenhoff extensive cooperation of the experimental subjects was counted on, because we had found out in our experiments with rabbits that the respiration had to be carefully regulated if altitude adaptation was to be achieved. And Kottenhoff had misgivings about whether persons who were forced to submit to the experiments would so regulate their respiration voluntarily. That is, I presume, why this question of whether the subjects were volunteers played such a great role with Rascher all of a sudden, because Rascher realized from his discussion

with Kottenhoff that the question of the subjects' being volunteers was very important. Otherwise, of course, I do not know how these letters came about nor just what happened between Rascher and Himmler.

Q Now, how elaborately did Himmler express the view that the subjects to be used in these experiments must be volunteers, that is, in that letter which Rascher produced at the January 1942 meeting at your institute?

A It was simply mentioned that the subjects should be volunteers. There was nothing in the letter about the way the selection was to be made.

Q Now, doesn't it seem inconsistent to you, or doesn't the document 1971 b PS which is on page 64 of the English Document Book, which is the letter from Himmler to Rascher which he received after Himmler had previously received Rascher's interim report, that he sent this letter to Rascher wherein he stated, one, this experiment is to be repeated on other men condemned to death, and so on? Isn't the element of the voluntary nature of the subjects conspicuously absent from this letter?

A I don't have this letter before me.

Q Do you have Document Book No. 2 there?

A No.

Q Produce German Document Book No. 2 please. (Whereupon book delivered to the witness). Now this letter says: "1. This experiment is to be repeated on other men condemned to death. 2. I would like Dr. Fahrenkamp to be taken into consultation on these experiments. 3. Considering the long-continued action of the heart, the experiments should be specifically exploited in such a manner as to determine whether these men could be recalled to life. Should such an experiment succeed, then, of course, the person condemned to death shall be pardoned to concentration camp for life. Heinrich Himmler." Now we don't see the word "voluntary" mentioned in this letter, do we, Doctor?

Q I believe that this letter obviously refers to Rascher's experiments, and not to ours. We did not carry out any experiments on which we had to see how long the heart continues to beat after altitude sickness; Rascher in his relations with Ruff, Romberg, and me.

Q Now, Doctor, I can well see that you are now going to draw this line of demarcation between Rascher's experiments, and the Ruff-Romberg experiments, and there is no point in our arguing further on this letter, but I do wish to call your attention to this letter where Himmler now, you stated, wrote to Rascher before this time, and stated that the subjects were to be pardoned. Now, in this letter he states that they are to be pardoned if they are killed, and then called back to life -- then you will grant them a pardon to be put in a concentration camp for life. Now that's the only instance wherein we see the "pardon" clause coming forth, isn't it?

A I don't know whether what Rascher told us always was the same as what he discussed with Himmler. I can only say what Rascher told us, and I can only refer to this one statement of Himmler's that I saw, and there is no doubt that the question of the voluntary subject played a role in the discussion between Kottenhoff and Rascher, and that our entire discussion with Ruff and Romberg also involved the voluntary element in a

very important role. Now I do not know whether Rascher got a separate letter from Himmler stating this, or how it was.

Q Now one brief question along those lines. Isn't it true, or won't you concede, that, after reading this letter which is in Document Book No. 2, and you say that you saw another letter from Himmler, which unfortunately we do not have here in evidence, doesn't it seem to you that the attitude of Heinrich Himmler changed considerably, keeping both letters in mind?

A What I heard about Himmler's attitude here, if I evaluate that now, then I must say that Himmler's attitude did change radically.

Q You don't have to go into a long discussion, Doctor, on Himmler's attitude. I am talking about the two letters. You saw one letter wherein you state that Himmler elicited that the experiments must be performed upon criminals, for one, and, two, they must be volunteers, and, number three, they will be given a pardon. Now you say you saw another letter of Himmler's wherein he said that the experiments can continue on persons condemned to death, and secondly, that if anyone dies or becomes unconscious in the course of the experiment, and they are called back to life, then they may be pardoned to a concentration camp for life. Now do those two letters one of which you saw, which this Tribunal and I unfortunately have not seen, and, the letter which we have before us, do they exhibit the attitude of one man on the same subject consistently?

A Whether or not they were to be volunteers is, as far as I can see in this Himmler letter, Document 1971-B-PS, not mentioned. It does not say that they should be volunteers, nor does it say that they should not be volunteers.

Q That is right.

A In other words, this letter which I know only from the records — does not appear to me to exclude the possibility that at another time Himmler wrote a letter in which the condition was laid down that the subjects should be volunteers, particularly since Rascher had to know that the question of their being volunteers was a very important point to us.

Q Now, Doctor, at this same meeting in January 1942, the question of the use of the low-pressure chamber arose, and, I assume, it was agreed that Ruff and Romberg would bring their low-pressure chamber down to use at Dachau. Now, did they agree to move this chamber to Dachau directly, and what was the reason for stopping off over night at the Institute Weitz? This seems to me of considerable interest here.

A Ruff testified on this at great length. During the discussion in my Institute in Munich, the individual conditions weren't laid down under which the chamber could be used. If I understood Ruff correctly, the camp commandant made these demands directly of Ruff, and I know nothing. When the chamber came I was told that the papers and the key to the chamber were to be left with me. Ruff has already explained that. The Berlin drivers arrived in the late afternoon: the chamber was not left at my Institute, however, but was left near the station, and on the next day the SS drivers came to me and fetched the papers and the key, and drove the chamber on.

Q These experiments, now Doctor, were to be performed on habitual criminals; the criminals were to volunteer, and they were to receive a pardon after they had undergone the experiments. What was the reason for the secrecy in the planning of these experiments, if everything concerning them was honorable?

A Ruff has testified regarding this point; the secrecy was determined from two points of view. The Luftwaffe required a secrecy of a limited sort because of the nature of the assignment was such as to indicate that a high altitude machine was under development in Germany; all these developments on research assignment were to be kept secret until they were finished, and, when they had been concluded, either they became secret once for all, they were made partially open to the public or entirely open. The decision as to this was, sensibly enough, always reached only after it was ascertained what the experiments had produced in the way of results. Now, while developments were underway, they were all secret. In contra-distinction, to my basic research on animals, which were

always open experiments. That was the reason for secrecy demanded by the Luftwaffe. Now, the SS also demanded secrecy, because of the concentration camp. This was a general demand of the SS. It was not because we were now performing experiments, but these were permanent secrecy requirements pertaining to the concentration camp. There were two sorts of secrecy, and two rules on secrecy.

Q Well, now, Doctor, you state that in the Himmler letter he merely stated that the subjects to be used must be volunteers, that he gave no particulars, nor did he not set forth any regulations for the selection thereof. Hence, it follows that Ruff, Romberg, Rascher, and Wetz, at the meeting in Munich at your Institute, January 1942, must have set forth a prescribed course to follow in the selection of volunteers. Now will you please tell the Tribunal just what steps you outlined for the selection of your volunteers?

A These points were not decided on at the discussion at my Institute, but at a discussion one or two days later with the camp commander at Dachau, when we drove out to Dachau.

Q You mean to tell me that at a scientific discussion in your Institute, when it was secret, wherein you had to ask Mr. Lutz and Mr. Wendt to leave the room, and that the paramount thought in your mind was that the subjects to be used were volunteers, that you didn't at that time discuss how they were to be selected before you met the concentration camp commandant? The basic problem here was the selection of the inmates to be used, if it wasn't the basic problem, you didn't have to go the concentration camp; do you mean to tell me that you four gentlemen with college educations, members of the medical profession, didn't discuss such an important problem at your meeting in Munich?

A. I do not see why you think this is a problem. We could find out the whole technical side of it and the set-up only be seeing the camp commander, and that is the reason we went one or two days later to Dachau. It was only there that the technical details were discussed. We knew at the meeting in Munich that they were to be volunteers, but without exact knowledge of the living conditions, regulations, etc., in the camp we could not decide whether they should be chosen at roll-call or in some other way. All these things we had to leave to the camp commander, and had to wait till he made suggestions.

Q. Just a moment, Doctor. You have stated now that you couldn't tell whether you would have to get them from the roll-call or what you must do. Then you must have talked about it at the Munich meeting. You couldn't have ascertained these things unless you chatted about it or agreed on something at the Munich meeting. Now, what did you agree upon? You must have said, "We can't decide on this volunteer business until we get to see the concentration camp commandant. But above all, the man must be healthy; the man must volunteer; he must be warned of the hazards of the experiments; we must thoroughly discuss these experiments with each inmate to be used so that we will be sure that he will cooperate in the manner that Kottenhoff has elaborately outlined; didn't you agree on those things, or were you negligent in your preparations?"

A. That was no problem for us. From the very first the offer made to us had been for volunteers, and we had no reason to doubt this question or to discuss it. We merely had to see to it that the conditions promised us were fulfilled regarding the voluntary consent, there

was no great discussion, because that was simply the prerequisite that was taken as a matter of course, and it was not discussed.

Q. I can understand that it was no problem for you at that time. But it is the big problem today. That is why you are here, because you didn't consider it a problem then. Be that as it may, then you went to Dachau. You arrived at Dachau, and then you discussed the nature of the volunteers. Now tell the Tribunal just what regulations you set up for the selection of these volunteers. Now carefully did you outline to the concentration camp commandant what type of subject you wanted?

A. Schnitzler, the adjutant of the Reichsleitung, informed the camp commander in our presence that his orders from Himmler were, one, that Himmler had given his permission for these experiments; two, that all of us were to participate in them; three, that they were to be volunteers and that they were to be habitual criminals. Then, between Schnitzler, Rascher, and the camp commander, there was a brief discussion, in which they decided that they would take the prisoners from block such- and - such. These numbers did not mean very much to us, and then we found out that the camp commander--

Q. Well, now, just a moment. They decided they would take the subjects from one block or another block; they specified what blocks that they were going to ask for volunteers? Is that it?

A. Yes.

Q. Continue. Go ahead.

A. The camp commander said, "Well, if these are the conditions, then it will be best to take the prisoners from such and such a block."

Q. Now, what were these conditions again?

A. Ruff has already said that. We said that these conditions were to correspond to the average requirements of the Luftwaffe.

Q. Well, now, did you then, while all of you were there, the gentlemen who had arranged the plans for these experiments, have the selection of the volunteers take place so that you would be able to ascertain whether or not you could use them?

A. No. That was decided on later.

Q. You mean any man who volunteered would be of use to you if he was healthy?

A. He had to meet certain requirements, and we knew Himmler's order which Schnitzler communicated to the camp commander in our presence. We knew what sort of a group of people they were to be. They were to be habitual criminals, and so forth. We knew all that. There was no room for any doubt or any uncertainty in this matter.

Q. You have conclusively stated that a subject to be used in the course of these experiments must be a man who is willing fully to cooperate. He must be a person as outlined by Kottenhoff on Page 11 of your document book, wherein Kottenhoff states:

"Rascher came to me after the lecture and spontaneously made the proposition to conduct the above under No. 10 further described high-altitude adaptability tests, which since 1937 I had planned to conduct on Luftwaffe physicians and pilots, on professional criminals. I explained to him that the experiments in question could only succeed if the test persons, overcoming the respiratory inhibitions at this altitude, could considerably increase their respiratory activity intentionally (by exerting

their will power); furthermore, that they had to carry out this forced respiration in a certain rhythm, mainly using abdominal muscular pressure (stomach respiration) and in a horizontal position. This increased respiratory activity could only be done voluntarily and should, under no circumstances, be interfered with the thought of a possible danger of life in these experiments. Therefore, the only persons qualified for the experiments would be those who really volunteered without any compulsion and who could be convinced that these experiments were not dangerous. Even at that time I expressed my doubts whether people other than Luftwaffe physicians and pilots were suitable for the experiments planned."

Now, Doctor, as an expert, keeping in mind Kottenhoff's recommendations which you have supplied here in evidence, which you obviously were aware of prior to the time you visited Dachau, wherein you made arrangements for the selection of the inmates, why didn't you--being the expert that you are, having full knowledge of another expert's views on these matters--why didn't you then, yourself, inasmuch as Raschner was to act as your subordinate in these experiments, Romberg to act as Ruff's subordinate, why didn't you then carefully ascertain the subjects to be used and be certain that they would conduct themselves in the manner outlined by yourself and by Kottenhoff, so you would be sure of no mistakes?

A. That is what we did. Ruff has testified at length on this, pointing out that even for this different group.....

Q. Ruff never talked to one of these subjects. That do you mean, Ruff testified at length? He never spoke to one. You never spoke to one, and Romberg could remember

the names of only two or three, maybe four. Who did speak to these people? Rascher? Did you leave it up to Rascher?

A. If the experimental subjects did what was expected of them as volunteers, pulled the parachute release, described what they experienced during their reactions, then Romberg must have spoken with them beforehand. The whole matter was settled as far as I was concerned by the fact that, against my will, I was eliminated by Rascher--against my will, at the beginning of the experiments.

Q. We'll go into that a bit later, Doctor. Now, you state Romberg testifies that they pulled the rip cord, that they pointed to their ears, that they did everything as instructed. Can you answer me this question: Suppose tomorrow morning you decide to do a high-altitude experiment, and I am an inmate of a concentration camp, and you say to me, "I am going to use you in an experiment today." I am not volunteering, Doctor. "I am going to use you in an experiment today, and this experiment is dangerous. If you don't pull the rip cord at such and such time, if you don't tell us what is happening to you, how you are feeling, how your ears are, if you don't respond to our questions quickly, you'll die." How do you think Mr. Hardy is going to conduct himself in that low-pressure chamber? I imagine I would conduct myself much better than the average volunteer, wouldn't I?

A. I am afraid that I didn't quite understand the purport of the question.

Q. I state again: you are going to conduct an experiment. This is hypothetical. I am an inmate of a concentration camp. You come to me and say, "You, I am going to use you in this high-altitude experiment right

now." I am not volunteering. You are taking me by force, in the manner in which they took them by force in the typhus experiments and other experiments in concentration camps. Then you say to me, "You are going into this chamber. We are going to take you up to 15,000 feet, or 45,000 feet"--whatever you select. You say that you want me to pull a rip cord at a certain time and that if I go unconscious, when I come to again you are going to ask me questions and you want me to answer the questions and that you want me to point to my ears when I feel pain in my ears, or whatever you wish me to do. You are instructing me. And then you say to me, "Mr. Hardy, if you don't follow instructions, you will die. If you do follow instructions, nothing will harm you. You will be perfectly all right." Now, don't you suppose that one Mr. Hardy will conduct himself in a manner in that chamber wherein you can get all the information you need? I don't want to die, Doctor.

Q. To this I can say two things. First of all, I wouldn't have taken you if you had not been a volunteer, because it was our plan and our intention from the very beginning to take only volunteers, so that that proposition which you have suggested is fallacious. That situation would never have arisen. I would never have forced you.

Secondly, if we had taken concentration camp inmates in large numbers and wanted to get true information from these people, then these people, if they had been forced, would probably have had enough sense to give us all sorts of wrong information so that they could sabotage the experiment, and thus all this information we got would be scientifically useless to us.

Q. Now, Doctor in the course of these experiments—this is purely a technical question, and you being a man who has worked with low-pressure chambers for a considerable length of time, having had one in your own institute—and there is an element of curiosity on my part—suppose I had volunteered for these experiments. Or suppose I volunteered for the von Kennel experiments in Heidelberg or high-altitude experiments anywhere, conducted in a manner as you say the Ruff-Romberg experiments were conducted, and I had volunteered to be willing to submit myself to a series of experiments. Now, being a layman, I don't know just how much of that I could stand. Now, how long could I stand these experiments—one individual? Now, you would use me, we'll say, in twenty experiments or twenty-five experiments. Could I stand twenty experiments? Could I stand fifty experiments? How long could I stand that, and over what period of time?

A. That depends on the nature of the experiment, but our long-time Luftwaffe doctors, like Ruff and Romberg, for example—and I could name you others—prove that you can stand thousands of experiments over the course of years without anything radical happening to you.

Q. Could I stand, we'll say these explosive decompression experiments—could I stand two each day for thirty days?

A You would have to find that out. You don't say right at the beginning, I am going to carry out experiments for 30 days with the experimental subject, but after you have done one experiment you reflect on how it turned out.

Q Have you found in you experience along these lines that sometimes you use a subject once and you find that you cannot use him again? That must occur quite often.

A Spreading the experimental subjects out over a long period of time was done, as Ruff also said, not because the experimental subjects were exhausted nor because their condition was bad. They were spread out over a long period of time in order to keep the experimental subjects from adapting themselves to high altitude, the condition, for example, the mountain climber in the Himalayas artificially creates in himself so that he can climb higher. Now, a person who has become adapted to high altitudes in this way is no longer an index of what an average person. When Romberg spread the experiments with any one person out over a long period of time, that was not because the man would not have been capable of being experimented on the next day, but to avoid this adaptation to high altitudes on the part of the subject.

Q Now, how many times have you yourself been subjected to high-altitude experiments?

A I have gone through a large number of low-pressure chamber experiments, and today I cannot.....

Q Would you say you have gone through thirty-five, forty-five, fifty, one hundred, one thousand, how many?

A I can't remotely estimate that today. That covers a number of years, many years.

Q Well, how long after you had undergone these experiments did you become acclimated to them, so to speak? Did you become accustomed to the high altitude after ten experiments, after going through it ten times, or after going through it five times, or how long before you became accustomed to high altitudes?

A I didn't work personally in this field, namely the field of adaptation to high altitudes, but people in my institute did. That was the work.....

Q Well, Doctor, what I am tryin' to arrive at is, when does a person cease to be useful as an experimental subject? I imagine Ruff is not useful now as an experimental subject because he has subjected himself to these experiments so many times that he has become adapted to high altitudes, and the same for Romberg.

A Adaptation to high altitudes is not something that lasts for the rest of your life, but something which at first rapidly and then more slowly is lost again. One can assume that if a person has not been in a low-pressure chamber for three or four months he has returned to a normal state.

Q On an average, can't we strike an average from your experience in this field on how long it takes for a person to become adaptable to high altitudes? I should think that would be a very important problem in aviation medicine, inasmuch as you could then just take low-pressure chambers and march your pilots into them and keep them in there so long each day, for a period of thirty or forty days, and then they could go and fly and it wouldn't have as much effect on them. How long can you undergo this before you become adapted to the high altitude?

A That is a very important problem in aviation medicine, and has already been dealt with by a number of people, such as Luft and Lupitz, but I myself did not work in that field and consequently cannot tell you anything about it from my own experience.

Q You mean that you are not qualified to determine when a person is adaptable to high altitude?

THE INTERPRETER: He misunderstood the question. As it again.

A I can tell by looking at a person. If today he is subject to altitude sickness at 7,500 meters, and then a week later he can stand 10,000 meters. Then I know he has adapted himself. This adaptation varies of course with the individual.*

* With one person it is quicker, with another slower. It is hard to give figures for that.

Q (By Mr. Hardy) Say you used a subject on Monday and put him up to 8,000 feet, 8,000 meters, pardon me, and then you used him on Tuesday and you put him up to 8,000 meters again on Tuesday. Then you used him on Friday and put him up to 8,000 meters again on Friday. Over that period of five days, would it be rather likely that on the third occasion he may not get sick? Would it be as close as that or would the series have to go into ten, twenty, thirty, forty, or fifty times, or would it be one or two times, and after one, two, three, or four times he may become adapted to 8,000 feet, or 8,000 meters?

A The first reactions occur as soon as the second or third time and increase thereafter. It does not happen all of a sudden. It is a gradual adaptation of the body which begins slowly with the second or third ascent, and then it gradually reaches a maximum above which it does not rise.

Q Then would you say if you used a man, say four times a week for a month, would it be very likely that he would be adapted to high altitudes then?

A Four times a month, did you say?

Q Four times a week.

A Four times a week? Yes, after four times a week a certain effect on him would doubtless be noticeable.

Q Well then, in the course of experiments it would be necessary, if you were going to conduct a large number of experiments, to have perhaps a suitable number of subjects available, wouldn't it? If, for instance, you were going to conduct one hundred experiments, and you were going to conduct that one hundred experiments in a period of one month - do you follow me, Doctor, one hundred experiments in one month - you would have to divide that up so you would have twenty-five experiments per week. Twenty-five experiments per week. Now, how many subjects would you need to perform twenty-five experiments per week? Would you need twenty-five subjects or would you need say five subjects and give each one of them an experiment each day, and then, of course, after you gave one of them an

experiment each day he may become adapted and you may not be able to use him any longer. Am I thinking clearly on this subject?

A This question cannot be decided in general terms, because you are just giving me a general outline and are not telling me what the experiments are to be like. If you want an answer, you must tell me specifically just what these experiments are, how rapidly the ascent is, at what altitude the man remains, all these things determine how the body reacts to altitude.

Q Let's say that they are experiments wherein a man is going to be taken above 12,000 feet, like Ruff and Romberg's experiments. Say they are experiments just of that nature. Now, if you had one hundred experiments to perform in the short time of one month, not three or four months, but one month, then how many subjects would you, as an expert in this field, require, because, you see, you have to perform five experiments a day, because you usually don't work Saturdays and Sundays, I assume. Do scientists work Saturdays and Sundays?

A Whether Romberg worked on Saturdays and Sundays I don't know.

Q Now, you have about five experiments to conduct each day. Now, how many subjects would you use each day? Would you use merely five subjects a day, in other words, you would have five subjects to use for the twenty-five experiments that week, and one man would undergo five experiments in a week, or how would you plan it out if you had just one month to do it in? You had to perform about one hundred experiments to collect the data necessary. How many subjects would you have volunteered, would you accept?

A The answer depends on various considerations. If I have nothing else to consider I can use each person only once and simply order as many experimental subjects as I need for each experiment.

Q Would that be the best thing to do?

A This solution would have both advantages and disadvantages. It would doubtless have the advantage that there would be no adaptation to high altitude. On the other hand, it has certain advantages for an experiment

you can form some medical opinion as regards any one person, about that person's general qualifications and resistance; there are advantages and disadvantages in this plan. Now, the other extreme would be to have just one experimental subject. In that case I would have to decide by the subject's reaction how often I could carry the experiment out without the subject's adapting himself. This is something I cannot answer theoretically, because the figures vary with the individual.

Q Now, Doctor, you have here the hypothetical question of one hundred experiments in one month. Each block is a week, four blocks, giving us twenty-five experiments per week. Now you are planning your experiments at the outset to conduct one hundred experiments, and you only have a month because of the fact that the Aero-Medical Center in Heidelberg would only let you use the air-pressure chamber for one month. They have to have it back. What would you say would be the desirable number of subjects? Would you consider using five, just five men and putting the five men through five experiments each day or each week, pardon me. Would you use five men and put each one of them through five experiments a week, or would it be better to use ten men, twenty men, or thirty men, when you only have such a short space of time to conduct your experiments?

A If I had a short time I presume I should use a relatively large number of experimental subjects so that I could spread them out better. That would be a matter of course. If I have more time I can get along with fewer subjects. Since I myself haven't worked in this field of explosive decompression, as you know, I don't have any personal experiences in this matter.

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Q. You would be a little bit cautious about using just five men, for this period of a month? wouldn't you? Just five men.

A. I never gave much thought to the question of the number of experimental subjects, under the conditions you cite.

Q. Do you mean you arrange an experimental plan and don't give thought to something like that? I should think that would be quite important, doctor, just how many subjects you need, because you have to have them on hand. If you were performing experiments in your Institute in Munich and using Luftwaffe volunteers or, say, citizens of Munich, and offering them 200 dollars to volunteer or something like that. Then you'd have to determine how many you would need available. Would you say you could use 5 men for 100 experiments to be performed in one month and use them safely and get good results? In other words bear in mind that that man has to go through an experiment each day, pretty near, in other words, he has to go through 25 experiments in 30 days?

A. I have already said that the question is not simply one of the experiments and the numbers involved in the experiments, but it is important how often and how frequently a person is subjected to high altitude during the experiments. And as I have already said, I don't know how explosive decompression and parachute descent affect adaptability to high altitude, because as I say I haven't worked in that field. I know nothing about it. If I were doing this I would carry on with a certain number of persons as long as the results seemed to be homogeneous and as soon as there was deviation in the results, I would get more subjects.

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Q. You say that you don't know much about the field of explosive decompression, that you perhaps never specialized in it and never conducted any experiments in it, then what in what in the world were you doing by arranging for Rascher to conduct experiments if you don't know anything about it, you don't know whether a man can go over 12,000 feet or not and not suffer...

JUDGE SEBRING: Mr. Hardy, you keep referring to 12,000 feet. I think if you will look at the record you will find it is 12,000 meters. I think you will find also when you referred to the Dachau experiments that over the period of time of two months or perhaps a little longer, that is to say from about 10 or 11 March until 20 May when the chamber was supposed to have been removed, there were between 200 and 300 experiments, with about 50 per cent of them made about 14 or 15 kilometers, which would be 14,000 or 15,000 meters not 15,000 feet.

Q. That's what I meant, Your Honor, in as much as Judge Sebring has got to the point for us, would you kindly tell me, Doctor, whether it would be feasible from the 10th of March to the 20th of May? -- Dr. Ruff and Dr. Romberg maintain that the first experiment took place on the 22nd of February 22 they discontinued until Rascher came back from Schongau. He returned from Schongau and Romberg returned from Berlin where he was visiting his wife, about 10 March, and they started the experiments 10 March, from 10 March to 31 March, you have approximately 20 days, the month of April which is approximately 30 or 31 days, and you have 20 days in May, so you have there a total of some 70 days, which

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is less than two and a half months, in a period of two and a half months you performed nearly 300 experiments on 7 to 12 subjects; doesn't that seem to be quite a number of experiments to require one man to endure during a period of two and a half months? You divide 12 into 300 and then divide 7 into 300; that is undergoing a considerable number of experiments, isn't he?

A. Yes, are you talking about the effects on their general health, or are you talking about the effects as regards adaptation to high altitude?

Q. No, I am not, I am not talking about the effect on their general health. I am referring to their adaptability to high altitude, and whether or not they would continue to be useful in the experiments as experimental subjects, and bearing in mind of course, as Judge Sebring pointed out, that these men are going 50 per cent of the time above 14,000 meters.

A. Big figures seem to make a great impression on you, but I and Ruff have already told you that the ultimate altitude is not alone important, but just as much depends on the time. Whether the subjects adapt themselves or not in a certain experiment, that I can see; in the program that Romberg drew up, I believe there was serious adaptation to high altitude.

Q. You have stated that it is possible that a person could be adaptable to one height in a period of three or four or five experiments; now, suppose you were experimenting and as soon as you saw he was adapted, would you drop him out?

A. I didn't say that after three or four experiments the subjects adapt themselves. I said that if you are trying to achieve adaptation to high altitude and arrange

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the experiments so that a high degree of acclimatization will result, then you can start seeing results after two or three ascents, that is what I said.

Q. Well, as soon as you see the result, then you wouldn't use the man in further experiments, would you?

A. If in the course of an experimental series I see that the subject is becoming adapted and disrupting the experiment, then of course I don't use that subject any further.

Q. Well, the other angle, what about the health of the subject undergoing we will say such a large number of experiments in the course of a month as 25, or 20 experiments in two months, would that have anything to do with it?

A. Let me clear this up. Adaptation to high altitude is not an injury to one's health, but it is a reaction which is sometimes deliberately induced, by sending people to the mountains, for example. It has nothing to do with damage to one's health. It is a perfectly normal condition, one that results naturally in high altitudes in the mountains, and a condition which a person voluntarily brings about if he is going to spend his vacation in a high mountain terrain. No injuries to the person's health are to be expected, I can think of no case, except for one or two cases where there was some question of tuberculosis having resulted after a large number of experiments. As I say, except for those cases in the course of perhaps millions of ascents I know of only two cases where TB resulted, in doubtful connection with high altitude. In other words, for all this is of no consequence, because it

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is much too rare. For all practical purposes damage to health is non-existent in high-altitude experiments.

Q. Well, now, Doctor, going back to the subjects used at Dachau, did you ever personally talk to one of the subjects used?

A. No, from what I have said it must be pretty clear that I didn't. I was in Dachau only at this one discussion before the beginning of the experiments, and never again.

Q. I see, and the discussion that you had at Dachau was merely the preliminary meeting, and the inmates were selected at a later date; you didn't even see the inmates?

A. The principles were discussed, according to which the subjects were to be selected. They were of course actually chosen later. I know nothing more about all these events, because I was no longer informed of what was going on.

Q. Now, you didn't see the subjects, and you now testify before this Tribunal under oath from your own knowledge that the subjects used were volunteers?

A. Since I never saw them, I can't testify on that subject at all. I can only say that it was agreed with the camp commander what the nature of these experimental subjects was to be. That is the extent of my knowledge on the matter. After that I know nothing.

Q. Well, now, after that meeting, can you tell us whether or not you discussed the nature of the subjects, that is the character of the subjects with anyone; did anyone afterwards tell you where they got the volunteers?

A. I told you in my direct examination how things

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continued as far as I was concerned. I heard nothing more about the progress of the experiments. Rascher was in Schongau and that was the reason why I asked Rascher through the letter him to report on what was going on. Rascher told me that he was still in Schongau, that the experiments in Dachau hadn't started yet.

MR. HARDY: At this time I would like to ask the court reporters to clarify the record wherein I have referred to figures, namely 8,000, 10,000, 14,000, or 15,000, if I have used the word feet, kindly strike that and include the word meters. I used the word feet erroneously.

This is a good breaking point, Your Honor.

THE PRESIDENT: The Tribunal will be in recess.

(Thereupon a recess was taken.)

THE MARSHAL: Persons in the courtroom will please find their seats.
The Tribunal is again in session.

MR. HARDY: Dr. Wetz, it has been called to my attention during the recess that you and I are conducting our examination much too rapidly, and the court reporters are having considerable difficulty in taking down the testimony, so, if you will attempt to cooperate, I will do the same and see if we can slow down a bit.

Q Doctor, we have heard here in this courtroom the opinion of various persons, namely, Professor Leibbrandt, Rostock, Rose, Sievers, and several of the other defendants, concerning the capacity of a person incarcerated to volunteer for an experiment. What is your attitude about the capacity of a prisoner to volunteer for medical experiments?

A I believe that in this case one must clearly distinguish between the philosophical concept of free will and the legal free will on the one hand, and the natural, scientific determination of our actions. Every one of our actions is of course determined casually by circumstances which have preceded that action, by the nature of one's personality; and, therefore, any will is determined naturally, scientifically by innumerable causes. Quite independent of that consideration is another consideration which confronts me with a choice of whether to do something or not to do it. The poor person who volunteers because of a sum of money I have offered him is certainly not doing that of his own free will, in the other form; he is also being forced to accept money, because of his entire situation; that the other way of looking at it. If I have an opportunity either yes or no without being threatened directly because of my decision, one has to say that the prisoner has the same free right, to decide as is the case with any other human being. That obviously is the general opinion, because, otherwise, one could never submit an affidavit to a prisoner; he decides quite freely whether or not he is going to sign. He can make many other decisions, just as he can make that decision. I was asked in the camp whether I was willing to do a number of things which of course arose from the fact that I was imprisoned. Had I not been imprisoned, nobody would

have thought of asking me these questions. While imprisoned I was in a position to decide freely whether, for example, I wanted to do certain work, for an addition to my rations. This was a completely free decision. I really don't see why a prisoner basically is acting under different conditions than any other person. The prerequisite is, of course, that I am not threatened but am given an opportunity to make this decision freely.

Q Then, in substance, Doctor, it is your opinion that a person even though incarcerated, can actually, in the true sense of the word, be a volunteer for a medical experiment?

A Certainly.

Q Well, now do you think that in the case of concentration camp inmates -- wherein here in Germany we had a unique situation, that you had criminal prisoners and political prisoners -- do you think that applies to either category equally as well?

A There is no doubt in my mind that even in a concentration camp, volunteer decisions could be offered to the persons there in good faith, and that these persons were actually free in their decisions. If I am now subsequently told that that did not happen in many cases, I can only say -- and that has already been said by Mr. Lutz -- that it was an enormous surprise for us at the end of the war to learn that these easy conditions of voluntariness were obviously not fulfilled, as we learned through the press. It would have been very easy for the State to comply with these conditions. No expense would have been incurred for the State, and everything could have been done absolutely irreproachably. For that reason, it was an enormous surprise for us that this condition which was so easy to fulfill, was obviously not fulfilled in so many cases.

Q Well, now then, considering the over-all picture of the status of the prisoners in the camp, the only real issue is what the particular prisoner will be offered to undergo the experiment. For instance, a criminal will be offered a pardon, a commutation of his sentence; or a political prisoner could be offered a pardon or a commutation of his sentence; or a political prisoner could be offered better food, like, for instance, you state that you might have been offered additional rations if you did certain duties.

Well, now, when you had this meeting, and Rascher showed you the authority of Himmler to use criminals for experiments: didn't it occur to you that the pardon would be perhaps allowing a criminal who, as you

say, was legally condemned, to then return to society and mingle therein? Didn't that element crop up in your mind?

A If one considers an atonement to society, I don't think that there is any difference whether this atonement takes the form of a certain amount of time spent in a prison, or whether it is served by subjecting oneself to danger, in the interest of society. I don't know what the legal aspect is, and I never worried about it. Whether it was legally permissible or not was something for the State to consider. We were merely confronted with the fact that an offer had been made to us to carry out experiments under certain conditions which we believed to be irreproachable. That was the situation we faced. It certainly was not our task to change these conditions in any way. All we had to ask ourselves was this: Are these conditions objectionable, or are they not?

The conditions as they were told to me by Rascher, as they were contained in Himmler's letter, and as I agreed with Ruff, I consider and I want to repeat once more -- to be irreproachable from an international standard, and measured against the strict standards of peace.

Q Well now, were you familiar with the manner in which these subjects used in these experiments were approached?

A How these persons were approached?

Q Yes.

A I already said that the conditions were discussed with Pyrkowsky. After that I didn't learn anything else about the further course of events.

Q Well, now, before you talked -- or, while you were talking with the concentration camp commandant, did you at that meeting -- or did Ruff or Romberg or Rascher; one of your group -- instruct the concentration camp commandant on how many subjects they thought they would need? Did they say, "we will need ten subjects, or twenty subjects, or thirty subjects -- and you pick thirty volunteers or a hundred volunteers?"

A Certainly. Naturally, Pyrkowsky would have to know about how many persons were needed.

Q How many volunteers did they decide at that meeting would be necessary?

A I can't remember now whether an exact figure was given.

Q Well, they were supposed to come from certain blocks in the camp, weren't they? You started to name two or three blocks wherein they would go and select the volunteers. Is that correct?

A Yes.

Q What did the concentration camp commandant say? Simply, we will use them from two or three different blocks" -- or just what was that conversation? Would you repeat it for me, please?

A I remember the following: Schnitzler first informed Pyrkowsky about Himmler's general order. Then we explained the extent of the experiments to Pyrkowsky -- what it was all about. And I am sure that he was given an approximate figure. Then Pyrkowsky considered from which blocks these persons were to be selected.

Q Do you know how many inmates were housed or quartered in one block?

A I know that now, after having lived in these blocks for a considerable period of time myself. Then, of course, I could imagine nothing by the expression "block".

Q Would you tell the Tribunal from your experience in Dachau since the war ended how many people can be housed in one block?

A We were up to 160 persons in a room; three beds, one above the other. There were six rooms.

Q That consists of one block?

A Yes, that was one barracks.

Q Then, in other words, you had six rooms with 260 persons to each room?

A Yes, that was the situation when the rooms were fully occupied, and that is what I experienced.

Q And he set aside two blocks to be used -- or two blocks from which they would select the volunteers?

A That I don't know.

Q I see. Well, you do know that they set aside one block to be used -- or did the concentration camp commandant say, well, we will get our volun-

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teers from Blocks 1, 2, 3 and 4? Or did he say, we will get them from just Block No. 1?

A The figures Pyrkowsky mentioned at that time didn't mean anything to me. He mentioned one block or the other. Therefore, I don't know whether he said that we shall get them from Block 24, or that he said 28, or any other block. I can't say that because these figures didn't mean anything to me.

Q Now, Doctor, after the conference in January 1942, and then after the meeting in Dachau, which was a couple of days later, then the low pressure chamber was sent to Dachau via your Institute, and the experiments were to begin on February 22nd. Now you had had your quarrel with Rascher?

A May I correct something?

Q Yes.

A The experiments were not to start on the 22nd of February, that was not known to me. I know nothing about that. The only thing I learned was that the low pressure chamber arrived, but when the experiments were to start, or what else was arranged, I don't know.

Q Well, now, when did you have your first disagreement with Rascher, approximately what date, in the month of January, or the month of February, or in the month of March, your first disagreement with him? Now, as of the time you left Dachau in January when you visited the concentration camp commandant and made arrangements for the performance of the experiments, that is, the technical arrangement at that time when you went to the concentration camp with Ruff and Romberg, that is, Ruff was Romberg's superior, and you said in the direct that you were Rascher's superior; now after that time when arrangements were being made, when did you have your first disagreement with Rascher?

A We separated in Munich after this visit at Dachau. Rascher returned to Schongau, while Ruff and Romberg returned to Berlin; after that I heard nothing more.

Q Well, now -- then you say that Rascher was relieved in February, or in the beginning of March, on your direct examination, or, the latest would have been during the first week in March that you no longer had any connection with Rascher. Now just when did you have your disagreement with Rascher, and received this telegram, and so forth. I want to try to fix the date, Doctor, when Rascher pointed out to you about in a telegram that this was to be a secret, and he could not tell anything about it and so forth?

A I am just clarifying that. After we had separated at Dachau, Rascher had returned to Schongau. He was at that time still residing there. It made no difference to me personally when the experiments would start. I had no interest in pushing them, so I did not bother about it. I was in Munich.

Q You were in Munich?

A Yes.

Q But at this time before the experiments started on a date which was unknown to you at that time, you were still in the position as Rascher's superior, and Romberg was subordinate to Ruff, in the same position that you were when you left the camp at Dachau, after the arrangements had been made, is that right?

A Rascher at that time was my subordinate. He had been detailed to my Institute. This assignment until that time had only been something on paper, inasmuch as Rascher had told me he still had work to do in Schongau, where he was doing something regarding the distant gauge, and I did not try to get Rascher quickly, because I did not need him for my purpose. I then heard accidentally that Rascher was staying in Munich, some one had seen him there. Then I was of the opinion that if he came to Munich anyhow, he may report to me. Thereupon I wrote him a letter saying that he would have to report to me twice a week, while he was residing there. I already described that.

Q This happened when, what date, approximately the 1st of February?

A I conclude from Document No. 284 that the last conversation took place at the end of February, or at the beginning of March; the two preceding times that Rascher came to see me were also a half a week earlier.

Q Well, then you ordered Rascher to report to you twice a week, after you had discovered he was in Munich. Now, that was in February, is that right?

A Yes, that was in February.

Q Now he reported to you, did he, in compliance with the letter, or the order?

A The first time Rascher came to see me and I asked him why he never looked me up, and he answered that he still had work at Schon-gau, and he said that after all the experiments at Dachau had not yet started.

Q And did you at that time have a severe quarrel with him, or did you then see him at a later date?

A I kept my calm during this first conversation; I could say there was a certain tension, and I made it clear to Rascher I wanted to preserve my status as his superior, and that tension was noted from the tone in which I wrote the letter to him. The letter was not addressed, "My dear Rascher," but was stated, "You are requested to report to me twice a week wearing your uniform." He could have no doubts on account of that letter that I was not approaching him as some good acquaintance, or a friend of his, but that I was approaching him as his superior. He had no doubts on him.

Q He came the first time?

A Yes.

Q That first time would be about the 1st of February, wouldn't it?

A No, I don't believe so. That must have happened later.

Q When would you say. Could you set some date about that?

A If I laid the last conversation when he showed me the telegram, about the end of February, or the beginning of March, I would say the first conversation took place one and a half weeks earlier.

Q That would be about the 20th of February, approximately?

A Yes, that could be.

Q Well, now then the experiments began the 22nd of February unbeknown to you?

A No, that was not known to me.

Q Rascher reported to you again. When did he report to you the second time?

A Half a week later, as I had ordered him.

Q That was about the 1st of March, or about the 27th of February, or the 1st of March?

A No, if I assume that the first report took place on the 18th or 20th of February, then the second report must have taken place three days later.

Q Three days later. Well, then, he had started the experiments on 22nd of February, did he report to you the second time before or after he had started the experiments, do you know?

A I never learned that. I can not tell you anything about that.

Q He reported to you for the second time, about the 22nd of February, or the 23rd of February, around in there?

A Yes.

Q And what happened on that occasion?

A In the meantime Anthony had telephoned me from the Medical Inspectorate, and had told me --- rather had inquired from me how the experiments at Dachau were progressing, and how long they would continue; whereupon, I told Anthony, "I can not tell you anything about that." I said that I did not know anything about the Dachau experiments. When Rascher came, I asked him about Dachau. I told him that the Medical Inspectorate had rung me up, and that day wanted to know what was going on. Rascher insisted that he had yet to receive his instructions and only then would he be in a position to report to me. He would then know how much he would tell me, and I then said to Rascher that I would not enter in such dealings, either would not I be participating in the experiments, or else he would have to be eliminated from my agency. I imagined that the next time there would be a considerable quarrel between us because I had put Rascher before an alternative. I was quite prepared that Rascher would raise some other objections, and, therefore

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asked Wendt to attend the third conversation. I already testified to that here. Rascher handed me Himmler's telegram, whereupon I told him that cleared this situation entirely, "You can no longer remain in my office." Rascher did not make any further remarks. The report had ended. I dictated a letter to Wendt addressed to the Luftgau, asking that Rascher be released. I then went to Berlin, wanted to report to Hippke. Hippke, however, was not there. Consequently I told the entire story to Anthony.

Q. And did Anthony approve the transfer of Rascher from your institute?

A. Yes, he approved it. He just accepted it as an accomplished fact and he said on his part that he would have to come to some other settlement with the Air Gau. He did not say what his final decision was because he probably could not do that. He probably had to report the matter either to his chief of staff or to Hippke or get into contact with the Air Gau. I don't know what he did.

Q. Well, now, this all happened about 1 March? That is the date?

A. I assume that the conversation with Anthony took place during the first days of March.

Q. After that ^{period of} time Rascher was no longer your subordinate?

A. No, that eliminated him very clearly.

Q. Then you were no longer connected with anything that Rascher did?

A. No.

Q. Well, now, you have drawn the Tribunal's attention to Document NO 264, which is dated 28 April 1942, in which you have offered the explanation that it is quite obvious from the turn of events, as you have explained them to the Tribunal, that this date of 28 April should read 28 February, rather than April.

This is on page 73 of Your Honors' document book number 2, Exhibit No. 60.

Now, Doctor, if we assume for the moment that your assumption that the date should be 28 February is correct, then it follows that herein it is requested that the assignment of Rascher must immediately be changed to the Aviation Test Institute, Berlin-Adlershof, Aussenstelle Dachau, and according to your testimony, because of your dispute with Rascher on 1 March you then went to the Luftgau and also reported to Hippke via Anthony that you were no longer assuming responsibility for Rascher and that Rascher was to be transferred from your institute. Now, that is the natural course of events if we assume that this date is 28

February, is that correct?

A. Yes, if my assumption is correct that Rascher was still in my office on 28 February, the date of this letter; however, he was certainly no longer at my office on 16 March, as can be seen from Document 318, Prosecution Exhibit 57.

Q. That is page 70 of your Honors' document book, 318, that the defendant is referring to. Do you have the document book there, Dr. Weltz?

A. I have those two documents.

Q. Will you kindly point out again to the Tribunal why you maintain that the document dated 16 April 1942, on page 70, shows that Rascher is no longer in your institute? What is there apparent in that document that shows that?

A. In Document NO 318 it says, and I quote:

"The Stabsarzt Dr. Rascher was detailed for special experiments, the execution of which together with the experimental establishment for air navigation was rendered possible by the Reichsfuehrer SS at Dachau, to the experimental establishment for aviation, branch office Dachau, from March 16 until April 16, 1942."

That is to say that Rascher during that time held a different assignment. Therefore, he could not have been working at my institute. I think that there can be no doubt about that.

Q. Well, now, what institute would he be at according to this letter? Who is he assigned to now?

A. Well, I can speak only of what is contained in this letter. There is mention made here of the branch office, Dachau, of the German Experimental Institute for Aviation. This is an agency which probably has not existed in this form, because I cannot imagine that there existed an experimental institute for aviation with a branch office at Dachau. Where this designation comes from and how it originated I of course don't know. For me it is important only to prove that Rascher had another assignment on 16 March and was no longer working with me. Whether this

assignment was to a place which is designated correctly or incorrectly bears no importance for this case. Werz then asked that this assignment be prolonged. The whole thing was intended to bring Rascher to Dachau.

Q. And Hippke, according to this letter, is well aware of the fact that you were no longer connected with Rascher, is that true?

A. I don't have the letter from Hippke before me. If you can tell me where it is---

Q. This letter of 16 April to which you referred is addressed to Hippke.

A. Yes, but there is another letter in existence, the reply letter of Hippke, which I can't remember at the moment. Hippke then in effect prolongs Rascher's assignment, as far as I can remember, but I haven't got the letter before me.

Q. Well, now, assume for the moment that the document on page 73, that is, 264, NO 264, Exhibit No. 60, assume for the moment that the date 28 April is correct, as it is on the document, actually is on the document - that that is correct. From this file note of SS-Obersturmbannfuhrer Schnitzler it appears quite conclusively that Rascher is still the subordinate of Weltz on 28 April 1942, doesn't it, taking that letter on its face?

A. If we assume that the date on this note of Schnitzler is correct, then all the statements which Mrs. Rascher has made are not correct. The entire letter can then make no sense.

Q. Be that as it may, Doctor, I asked you a question. From this letter, in and of itself, disregarding any other letters, from this letter with the date 28 April thereon, it is apparent that Rascher is still your subordinate, isn't it? From this letter?

A. Yes, but that is not true.

Q. All right, Now, just a moment. Do you recall the name Anneliese Frick?

A. Yes.

Q. Can you tell the Tribunal who Anneliese Frick is - F-R-I-C-K?

A. Miss Frick was a technical assistant of our institute.

Q. She is the daughter, is she not, of Wilhelm Frick, who was a defendant before the International Military Tribunal?

A. Yes, she is Frick's daughter, and also the daughter of his wife who divorced him. I think that at the time she was at my institute they were already divorced.

Q. Well, when did Miss Frick join your institute?

A. That I can no longer tell you. I really don't know.

Q. If Miss Frick said that she joined your institute on 15 April 1942, would you assume that that was about right?

A. I can hardly check that. 15 April 1942?

Q. Yes.

A. It is possible.

Q. Possible. Well, now, did Dr. Rascher ever come to visit you after you had your disagreement in March? You stated in direct that you only saw him accidentally a few times after you relieved him.

A. The statements are contradictory to that effect. As far as I remember, it was reported to me that Rascher had appeared several times in the institute, behind my back. On the other hand, Wendt did not know anything about these visits, which were reported to me by other people. Today I no longer know whether Rascher appeared several times at my institute during my absence or not. On the occasion of my first interrogation I stated that Rascher appeared at the institute behind my back because I thought that I could remember one such report.

Q Did Rascher ever appear at your institute in late April or May to see you?

A I don't know that.

Q You don't remember that?

A You mean, did Rascher once more visit me after the telegram?

Q Yes.

A I don't remember that.

Q Do you recall a particular incident which occurred either the latter part of April or first of May or the middle of May or in that period of time, not in the month of March or first of April, wherein Rascher was coming to see you, and you were pretty busy and you didn't want to spend too much time with him because you were too busy? Do you recall any such thing as that?

A No, I don't remember anything like that, but I always said that it is quite possible that Rascher appeared at the institute afterwards. I said already that I remember a report which I had that he was there once more. This, however, cannot be brought into conformity with Wendt's statement. That is, therefore, why I don't know what the correct situation is.

Q I am not referring to Rascher's visiting you behind your back. I want to know now whether you can recall having had a visit from Rascher in late April or early May, or even sometime during the month of May, the whole month of May. Did Rascher ever visit you, yourself, go to your office to see you in April or May?

A I don't remember that, but I wouldn't exclude that possibility at all.

Q Now, let us try to refresh your recollection. As it so happened either in late April or early May you had broken your watch, or you didn't have a watch so that you could tell time, and do you recall asking Miss Frick for the loan of her watch so that when Rascher came you would be able to judge the time because you were so busy, and you were unable to spend too much time with him. Now, an incident like

that must be one you can remember clearly, when you borrowed Miss Frick's watch upon a visit by Rascher so that you would be able to time him and allow him a specific amount of time for a conference with you. Do you recall that?

A No, I don't remember it, but if Miss Frick says so, I don't want to exclude that possibility.

Q Well now, did you ever ask Rascher for an invitation to Dachau to attend the experiments?

A Do you mean an invitation to Dachau to attend the experiments? After Rascher had shown me the telegram, it was quite clear that I --

Q At any time. At any time, before or after.

A Would you please repeat the question?

Q Did you request that you be allowed to attend the experiments at Dachau before the telegram?

A Before the telegram it certainly was my wish to attend the experiments.

Q And did you tell Rascher that if you could not attend the experiments that Rascher would be withdrawn or you would relieve Rascher or request his transfer from your institute?

A Certainly. That was the argument in the conversation.

Q And you fully deny or exclude the possibility that you issued an ultimatum that Rascher would be withdrawn in case you were not invited to attend the experiments before the first day of May, not March, May?

A That I asked Rascher, that I wanted to participate in the experiments, was really the core of my arguments with him, but I don't believe that that happened in May. As I can see from the documents, the entire affair took place at the beginning of March.

Q Now, this Document 264 has a date on it, 28 April, 28 April. You maintain it may well be 28 February, and in that document it appears that you want to see then the whole arrangement at Dachau. Now,

if that date is correct, then it might be correct that you could have asked Rascher that you wanted to go there and see what was going on, and that Rascher was still your subordinate, if that letter is correct, and you said that if you didn't see the experiment you were going to relieve him, as late as April 28, April that letter is dated. Now, you exclude that possibility altogether, don't you?

A The letter by Mrs. Nini Rascher dated the 24th of February could then hardly be explained.

Q I didn't ask the letter to be well explained, Doctor. We will explain that in argument. I am now asking you to think again, did you relieve Rascher from your command in March, or did you relieve Rascher from your command in, say, June?

A I cannot make any other statement than what appears from the document. I have tried to reconstruct the entire matter on the basis of what I have seen in the documents. I cannot interpret Mrs. Nini Rascher's letter dated 24th of February other than to mean that I was prohibited to attend the experiments, and that the entire discussions as to whether I was to participate or not must be placed into February, and that is the only indication that I have in these facts.

Q Well now, Doctor, would you say that Milch would have been informed that Rascher was no longer associated with you when this break took place in March, or would Milch have been misled and been misinformed as late as 20 May, 1942?

A I can tell you nothing about that. I don't know what happened between the Medical Inspectorate and Milch.

Q Well, Milch did consider you and Rascher associated as late as 20 May, 1942, didn't he, according to Document 343-PS which is in German Document Book and Document Book No. 3, the freezing experiment document book, on Page 11, wherein Milch addresses Wolff in the "Dear Wolffy" letter, and Milch states: "In reference to your telegram of 12 May our sanitary inspector reports to me that the altitude

experiments carried out by the SS and Air Force at Dachau have been finished. Any continuation of these experiments seems essentially unreasonable. However, the carrying out of experiments of some other kind, in regard to perils at high sea, would be important. These have been prepared in immediate agreement with the proper offices; Major Waltz will be charged with the execution and Capt. Rascher will be available until further orders in addition to his duties within the Medical Corps of the Air Corps." Now, it appears there that Mr. Milch still considers you and Rascher as associates and him being subordinate to you, doesn't it, as late as 20 May?

A That does not seem to be the case. It becomes clearly apparent from Hippke's statement how this suggestion by Milch to Wolff has originated. Hippke testifies that there was a desire to carry out freezing experiments and that Hippke had made another suggestion completely independent of the high-altitude experiments, to ask me to attend these freezing experiments because I had already worked on that subject. That has nothing whatsoever to do with the high-altitude experiments and therefore does not prove whether I at that time worked together with Rascher or not. That was a suggestion that Hippke made to Milch on his own initiative and was entirely independent of whether Rascher was working at my office or not.

Q It seems rather strange that Hippke would suggest you work with a man again with whom you had a severe disagreement, doesn't it, on experiments which are also going to be in a concentration camp where in there is an alleged telegram that you were not allowed there, that they were secret and Himmler would not let you in. It seems rather strange now that they would sort of associate you with this man whom you have absolutely transferred from your organization and don't want any more association with, doesn't it?

A That may be strange if I had later again worked with him, but from the fact that my name was dropped, and from the fact that throughout the entire later correspondence my name no longer appeared,

experiments carried out by the SS and Air Force at Dachau have been finished. Any continuation of these experiments seems essentially unreasonable. However, the carrying out of experiments of some other kind, in regard to perils at high sea, would be important. These have been prepared in immediate agreement with the proper offices; Major Woltz will be charged with the execution and Capt. Rascher will be available until further orders in addition to his duties within the Medical Corps of the Air Corps." Now, it appears there that Mr. Milch still considers you and Rascher as associates and him being subordinate to you, doesn't it, as late as 20 May?

A That does not seem to be the case. It becomes clearly apparent from Hippke's statement how this suggestion by Milch to Wolff has originated. Hippke testifies that there was a desire to carry out freezing experiments and that Hippke had made another suggestion completely independent of the high-altitude experiments, to ask me to attend these freezing experiments because I had already worked on that subject. That has nothing whatsoever to do with the high-altitude experiments and therefore does not prove whether I at that time worked together with Rascher or not. That was a suggestion that Hippke made to Milch on his own initiative and was entirely independent of whether Rascher was working at my office or not.

Q It seems rather strange that Hippke would suggest you work with a man again with whom you had a severe disagreement, doesn't it, on experiments which are also going to be in a concentration camp wherein there is an alleged telegram that you were not allowed there, that they were secret and Himmler would not let you in. It seems rather strange now that they would sort of associate you with this man whom you have absolutely transferred from your organization and don't want any more association with, doesn't it?

A That may be strange if I had later again worked with him, but from the fact that my name was dropped, and from the fact that throughout the entire later correspondence my name no longer appeared,

it can be seen that this first suggestion by Hippke could not be executed for some reason or other, and I would assume that the reason was that at that time I no longer worked with Rascher, that I at that time had already quarreled with him. I assume that Rascher said to Hippke, "You suggested Wetz, but he is not the man with whom I would like to collaborate." I don't really know the detail of that discussion, but the very circumstance that I was suggested and that this suggestion was not perfected afterwards seems to the contrary to prove that there must have been certain reasons not to carry out this plan of collaboration between Rascher and Wetz, and I must assume that this is because of the quarrel that I had had with Rascher beforehand. That Hippke was not informed on the 20th of May 1942 about my quarrel with Rascher would not be very surprising because from the point of view of the Medical Inspectorate such quarrels did not constitute any great event. I testified here that I didn't report that matter to Hippke but reported it to Anthony. Therefore it is quite possible that either Anthony did not inform Hippke about this matter in sufficient detail or it may also be that Hippke had forgotten the affair in the meantime. From Hippke's point of view the matter did not bear very much importance. I again refer to the telegram. May I explain why I assume from the files that this telegram was submitted to me after the 19th of February?

Q Just a moment, Doctor. We have explained this sufficiently well enough, I think, and I want to give you another document to help you along so that you can explain it. Your name hasn't appeared in any other of these documents, you say, at this later date. Now, we are going to look at Document NO-1359, first offering it for identification as Prosecution's Exhibit 493, your Honors. Kindly read that document aloud, Doctor.

A. It is a note, signed "Sievers, SS Obersturmbannführer.

"SS-Untersturmführer Stabsarzt Dr. Rascher reported in Munich on 29 April 1942 about the result of the conference with Oberstabsarzt Dr. Woltz. Woltz requested, that Dr. Rascher be withdrawn in the case that he would not be invited to attend the experiment until Friday, 1st May 1942. The Reichsführer SS was informed accordingly. He ordered SS Obergruppenführer Wolff on 30 April 1942 to send a teletype to Field-Marshal Milch requesting Dr. Rascher's detail to the German Experimental Institute for Aviation, Dresden branch, and that at the disposal of Reichsführer-SS."

Q. This appears in your Document 264, dated 28 April, and this document here dated May 3, refers to the date of 29 April, also refers to the fact that you requested that Rascher be withdrawn in the event he would not have you attend the experiments before the 5th of May, and then it is very likely this telegram you referred to was also written about the last of April, isn't it?

A. Yes, now the entire matter looks somewhat different. If I had had this file note of Sievers in addition to my other documents, I would have known that the notes of Benitzler was correct, and that there must be another possibility to explain Mrs. Nini Rascher's letter. This letter, on the other hand, cannot be explained now. I can only try to reconstruct the dates from the documents which were available here, since I no longer know them today.

Q. Well, now, lets discuss the freezing experiments, that is; after this letter of Milch was issued wherein you were suggested with Rascher to conduct the freezing experiments and Milch suggested you were to handle the execution

of the freezing experiments, did you become aware of the fact that Milch had made arrangements in this manner and had suggested that such arrangements be made that you handle the execution of the freezing experiments?

A. I have already testified here that I never learned of this letter of Milch, dated 20 May 1942. Those things were happening in Berlin and I never found out that I was to be involved. An order never reached me and I was never asked what my attitude was.

Q. Well, the freezing experiments were of considerable interest to you, weren't they?

A. Certainly, we had also worked in the field of cold, and I already said here that I repeatedly had asked for Holzlochner's report, because I was interested in what was going on.

Q. Well, now, were you conducting your animal experiments that are reported in your document book on which you reported upon at the Nurnberg conference in October; did you conduct your animal experiments at the same time Rascher and Holzlochner and Finke were conducting their experiments on human beings at Dachau, or had you completed your work some time before or after; can you please say just what time you were conducting your animal experiments as opposed to the human experiments of Rascher, Holzlochner and Finke?

A. We certainly carried out the animal experiments simultaneously, that was during the time the experimental series Holzlochner, Finke and Rascher was running at Dachau, we worked on the animal experiments at our institute on which I reported at Nurnberg. I think that is the way I have always described it.

Q. I see; well now, when you worked on animal

experiments, were you working on larger animals at all or always small animals; I thought + understood you to say you were working on pigs, larger animals, is that true?

A. No, I didn't say that. We started to work on smaller animals and at first started to work on the basic problems using small animals. Once having established a certain basis we went over to large animals which were more expensive. We started with rats and guinea pigs and went over to rabbits and cats, and at last we worked on pigs.

Q. What type of equipment would you use in freezing experiments with small animals? Would there be a difference between the equipment used for small animals or large animals?

A. Certainly, for the large animals I need a big cage into which it could be run, where in the case of the small animal I only need a very small glass container. What else I need for my equipment depends upon what I am working.

Q. When did you send the equipment that you had used for your experiments with the large animals to Dachau?

A. That was never the case.

Q. What happened to the equipment?

A. You are speaking of equipment for large animals?

A. Yes.

A. This equipment for large animals consists of two cages of oval cross-section.

Q. Two tubs?

A. Yes, two tubs.

Q. And what happened to those, what did you do with them; did you throw them away or have them burned or were they bombed, or what happened to them?

A. These two large tubs were at the Estate Hirschau, and if nobody took them away are still there.

Q. Is that where Major Alexander visited you at the end of the war in I believe, 1945?

A. Yes that is the place.

Q. Dr. Alexander was unable to find the large tubs, wasn't he?

A. Well, if Professor Alexander had told us that he was interested in seeing two large tubs I would have been glad to lead him into the pigsty where these two tubs were and shown them to him.

Q. What did you do with the thermometers and equipment you used on the large animals; was that still available?

A. Certainly, they were not removed, certainly not upon my order. We mostly measured the temperature by electricity, we also used thermometers, especially for measuring the temperature of the water. As far as I know nothing was ever removed from there. At any rate I never gave permission to do that. I think I said to Professor Alexander that I vaguely remembered that Wendt had reported to me that Munich, not Hirschau, had ordered something to be removed while I was absent, and somebody wanted to take something to Dachau. When I returned I heard about that and I prohibited any such practice. Wendt does not seem to remember that, so that I am not quite sure about it. I am sure that we refused to lend the colorimeter.

Q. Then according to Wendt, one of you witnesses, some of your equipment was sent to Dachau?

A. No, on the contrary Wendt says that nothing was sent to Dachau, that nothing was ever demanded. On the other hand remembered vaguely that I once returned from

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a vacation and Wendt had told me that something was demanded. At any rate I know for certain that I told Wendt that under no circumstances should anything be furnished to Dachau and I certainly remember this affair with the Colorimeter. Nothing was ever given away. What I am saying now refers to Munich, but I am quite sure that nothing was sent to Dachau from Hirschau. There was no connection between Dachau and Hirschau. I don't think that anyone would have thought of sending anyone to

Hirschau from Dachau. I can say for certain not only I don't know of any such thing happening, but I am quite sure it didn't. As far as Munich I can say that nothing was removed without my approval. I am quite sure the oxygen meters were refused and that the Colormeter was also refused. Whether in my absence anything was furnished without my orders I cannot say.

MR. HARDY: May it please the Tribunal, if the Tribunal will bear with me I can complete my examination in about 5 minutes, and thereby complete it before the noon recess.

THE PRESIDENT: Very well.

Q Doctor, were you of the opinion it was necessary to conduct freezing experiments upon human beings?

A I don't know the extent of Holzschner's freezing experiments, that results can be achieved by using human beings that cannot be achieved by using animals was quite clear to me. That is a matter of course.

Q Then you were not completely opposed to conducting freezing experiments upon human beings?

A Certainly not. I approved of the high altitude experiments which Ruff was carrying on and if freezing experiments had been used under the same clear conditions it would have been very illogical if I would have any moral misgivings. These matters always depend upon the execution. However, I must say that in the case of freezing experiments I would set up a much stronger measure, because they are connected with a great many more inconveniences to the experimental subject. These inconveniences can be adjusted by anesthetics.

Q Then it is your opinion, as stated on page 36 of your Document Book, that is the second page 36; there are two pages 36, Your Honor. This is Holtz Document No. 5. You stated in your report which was a report before the October conference in Nurnberg, as follows:

"Many people will certainly be reluctant to apply the above abrupt methods of warming to human beings without further consideration, since the former view has always been that this kind of treatment must lead

to most severe collapse. We have, as stated above, never observed such a collapse with our animals. At the beginning of the hot bath we even found a quick increase of the muscle tonus which according to K. Henderson, should counteract any tendency to collapse. One can, however, raise the objection that the whole process of regulating temperature by way of the skin is so different in the cases of humans and furred animals that one cannot draw any binding conclusions. This objection is certainly worth attention and cannot be refuted by animal experiments." Then it is your opinion, as stated here, that experiments upon human beings are justified for freezing?

A May I ask you to go on reading and you will find my point of view, and I show that as this consideration, namely that there are differences between human beings and animals which can be circumvented by considering electrical re-warming and that no objection can be made in the case of electrical re-warming. If you go on reading you will see that one of the two forms of re-warming would have to be applied in the case of human beings.

Q That is true. Now on page 37 of this same document, it states:

"One more experience with short wave warming seems to us important. Following a suggestion made by Professor Holzlochner, we warmed the animals by way of comparison with small electrodes on the neck and head only in the region of the vital centres." When did you get this suggestion from Holzlochner?

A This suggestion was made to me by Holzlochner during the conference which I mentioned, which took place in Paris in the summer of 1941. Naturally, we discussed our mutual problems regarding the cause of death by cold. Holzlochner at that time in Paris in the summer of 1941 was of the opinion that the cooling of the vital centers of the medulla oblongata was the cause of death. During the Dachau experiments Holzlochner changed this opinion and looking at the Murnberg report of Holzlochner you will find that it is his opinion that the cold death of a human being is caused

by a defect in the heart. From this change of opinion it is clearly evident that what I was investigating here and was at that time Holzschner's opinion, was an old opinion of his and not the opinion which he held later as a result of his experiments.

Q When did you first learn of the freezing experiments on human beings at Dachau?

A I already said that when these people came to us and asked us to carry out oxygen examinations in the blood.

Q What date was that approximately?

A That must have been in the summer of 1942, two or three months before the Nurnberg conference.

Q Did they ever ask you or send to you bodies to be sent on to Dr. Singer for autopsies?

A No.

Q And then the next time you heard about the experiments at Dachau was at the conference in October, is that right?

A Yes.

Q Did you perform these blood tests or these oxygen blood tests as requested?

A No. Werz reviewed that and he reported it to me later. I didn't carry that out, but Werz did. I mean basically it was Werz' task to carry out oxygen tests and not mine.

Q Who was Werz?

A Werz was my oldest assistant. I told you that.

MR. HARDY: No further questions, your Honor.

THE PRESIDENT: The Tribunal will be recess until 1:30.

(Thereupon the noon recess was taken.)

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ATERNNOON SESSION.

(The hearing reconvened at 1330 hours, 8 May 1947.)

THE MARSHAL: The Tribunal is again in session.

DR. GEORG WELTZ - Resumed.

THE PRESIDENT: Has Counsel for defense any further examination of the witness?

REDIRECT EXAMINATION.

BY DR. WILLE (Counsel for the Defendant Waltz):

Q Dr. Waltz, I return to the question first of all that were discussed yesterday, namely, the questions that the prosecutor directed to you during the course of yesterday's session, and I ask you, first of all, to answer the following question: Would it not have been possible to confirm the experimental series that were discussed by Ruff and Remberg in Adlershof, outside of concentration camps? The prosecutor feels that experimenting in concentration camps could have been avoided. Now, give me a clear answer and tell me, would you have received the necessary number of experimental subjects, namely, 15, from the Luftwaffe?

A It was difficult to find that number of volunteers for such a length of time, for the reasons Ruff has already set forth. People were not released from their official duties so that we could have them available. So far as they were employees of the Institute, they had to continue doing their daily work so that for this reason they were not really available, at least practically not. Now, I was asked whether enough volunteers would have volunteered. There were always plenty of Luftwaffe volunteers for high altitude experiments, so far as it depended on the will of the volunteers. If we asked a squadron, "who of you wishes to volunteer for high-altitude experiments?", and if we had been able to tell them, "You will be relieved of your other duties for the period during which these experiments are carried out," then, of course, just about everyone in that squadron would have applied, because for these people high altitude experiments were something that they were familiar with. They knew that they involved no pain or unpleasantness,

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and the conditions brought about by these experiments were conditions which they already knew. That we could not proceed in this way was determined by quite other factors, namely the fact that during the war everyone had more work to do than he could do, that the individual offices thought it was very important that their employees should not lose a single hour from their regular work. And we had the same sort of troubles with students. If we asked what student wanted to volunteer, then a lot of students would have been ready to, but if we proceeded to the practical angle and said: "Tomorrow I want you here for a whole day," then the difficulties arose, because all these students had other obligations. This time was not at their disposal. They, of themselves, would have liked to volunteer and this apparently the difference, if one says that on the one hand, there were plenty of people in the Luftwaffe who wanted to volunteer, and, on the other hand, it turned out to be impossible, in the practical field, to get them.

Q Now, let us assume that you had received the people from the Luftwaffe. Could Rascher have been restrained from carrying out his own experiments in Dachau?

A Certainly not, because at the moment when on the 15th of May 1941 Rascher asked Himmler whether he could permit such experiments, and from the moment on when Himmler permitted these experiments, Rascher had the duty as SS-man towards Himmler to make use of this permission that Himmler had accorded him. Rascher always occupied a dual position. On the one hand he was a Stabsarzt of the Luftwaffe, and in this capacity stood in a clearly defined military subordination and commission, and on the other hand, Rascher was a member of the General-SS, and in this capacity he was subordinate to Himmler, and only in this capacity did he turn at the time to Himmler in order to receive permission to carry out these experiments.

Thus it was quite clear that at the moment when Himmler gave permission for the experiments Rascher certainly did take advantage of that permission.

Q. Now another question relating to your examination of yesterday. The Prosecutor among other charges accused you of being guilty of the fact that Ruff and Romberg who carried out the experiments and are in the dock today and you answered this question in the affirmative. I assume therefore that this is an admission of guilt for your person in the judicial or even moral sense, or am I wrong in that. Will you please explain your position again.

A. I can say to that that if Rascher had not been assigned to my office against my will and without my intent that then I wouldn't be in the dock here either. In the last analysis the whole indictment has come about because Rascher, contrary to our program, without our knowledge, did things that are charges in the indictment here. Neither I, nor Mr. Ruff nor Romberg are in any way responsible for that.

Q. Now I have a few questions regarding this morning's cross examination. This morning the Prosecutor suddenly showed you a new document in order to prove that Rascher did not leave on the 20th of February because of the Himmler telegram but left only later. Now I ask you first of all on the basis of what date did you determine the time for the individual occurrences, particularly the time when Rascher left your office?

A. Of course, today I do no longer have in mind the dates for occurrences that happened five years ago. I did try on the basis of the documents here in evidence to reconstruct the chronology of the dates and I believe I said very clearly in my direct examination just how I came to fix on the dates that I did fix on. It was my point of departure that two dates are most certainly incompatible. In the document NO-318 it says that Rascher on the 16 of March 1942 had already been assigned to the Dachau field station of Air Research Institute, and in the Schnitzler file note, which is document 264,

it says: Rascher's assignment to Dachau must be immediately changed to an assignment to Air Research Institute Berlin-Adlershof, Dachau Field Station. In parenthesis: In Weltz' institute, since as Wentz tells us he will have the assignment cancelled immediately unless he takes a part. Now one of these documents has to be erroneous, that is to say, it must be wrong because Frau Rascher cannot on the 28th of April ask for an assignment somewhere, which according to the other document had already been given to Rascher a month earlier. This was my point of departure and I thought I could by assuming that the Schnitzler file note, namely NO. 264, has a false date on it, and that the date should not be the 28th of April but the 28th of February of 1942. Now through the submission of the new document, NO. 1359, the file note of Sievers, seems to make it clear to me that the Schnitzler file note really does bear the correct date, namely the 28 of April 1942. I must therefore confess that I cannot clarify this contradiction. Therefore, there really is the contradiction in the two documents NO. 264 and NO. 318. From the material I have available here I cannot clear up this contradiction. Purely objectively speaking this fact does nothing to change what I have said here except as to my conjecture regarding the dates which I now withdraw. Particularly it changes nothing in my statement that nothing of the Dachau experiments was reported to me. On the contrary, Sievers Document NO. 1359 corroborated anew that I asked Rascher to report to me and I placed before him the alternative of either remaining in my institute and reporting to me or leaving. It can also be seen from the Sievers document that there was no report to me on the Dachau experiments and that just was the reason for my quarrels with Rascher.

Q. I have one last question to clarify this contradiction. Now which of the two sides of this contradiction do you think is the more likely? We have the letter from Wolff on the 10 March which is a sort of official document, whereas Rascher's reputation for veracity after all I heard about him was not very great, now which do you think

is correct?

A. Since my first attempt to clarify this contradiction came to naught I should not like to try again. I simply can see no way to clarify it on the basis of the material before me.

DR. WILLE: No further questions in re-direct examination.

THE PRESIDENT: Are there no further questions to the witness?

DR. TIPP: Dr. Tipp for Becker Freysing.

THE PRESIDENT: The re-examination of this witness at this time must be limited to matters which were elicited from the witness, statements which he made on cross examination.

DR. TIPP: Very well, Mr. President, I will put only that sort of questions.

BY DR. TIPP:

Q. Professor, in the cross examination in answer to a question by the Prosecutor regarding the chain of command in your institute you said the following: Economically and disciplinarily I was subordinate to the Luftgau in Munich but in scientific respects to the medical inspectorate. Mr. Hardy whereupon asked you whether that was Anthony's office and you said "yes", and from this it could be deduced that you received your orders and directives in research matters or in all scientific matters from Anthony's office, that is to say, the office for Luftwaffe medicine, for aviation medicine in the medical inspectorate or by the man in charge of those matters. Is that what you meant to say, professor, or how can you explain this remark?

A. It is as I said: Namely in the scientific respect I was subordinate to the medical inspectorate, and the medical inspectorate was represented for me either by the inspector himself or by the Chief of Staff; the technical expert did not give any orders. That went on through the inspector or the Chief of Staff. I simply wanted to say that Anthony was the department expert at the same office of the medical inspectorate from which I also received my orders from its chief.

Q. In the cross examination you also said that in the Luftgaus there were consulting physicians. Under the term "consulting physicians" one understands that you also know the doctors who advised the various commandants, that is the Air Fleet physicians, or the medical chiefs themselves. Now, Professor, do you mean by that that there were consulting physicians in that technical sense to the Luftgaus or their institutes. Did you say that from your personal knowledge or was what you said yesterday simply a conjecture?

A. Whether the Luftgaus had advisers that I do not know. We were concerned then with Professor Singer and I only meant that the technical experts in the various fields were also the advisers to the Luftgaus. Whether they held title of consulting physicians I do not know. Professor Singer, with whom we were then concerned, was, I believe, called "Luftgau Pathologist" or something of the sort. His official title had nothing about an adviser in it. But regarding these matters I have only partial knowledge because I had not very much to do with that.

Q. Now another question. It refers to this Luftgau pathologist, Dr. Singer. The prosecutor said yesterday in cross-examination that from the documents it could be seen that Dr. Singer refused to collaborate with Holzloehner and Finke for ethical reasons. I have now checked through the documents and I can find no such document. Since you were interrogated yesterday about this document, I want to ask you whether you know what the reference was.

R. HARDY: May it please Your Honors, the last question of defense counsel, I don't understand what he means. I can't get the import of the question or what he is referring to. I can't understand it at all. Will you have him rephrase the question?

THE PRESIDENT: Will Counsel repeat the question?

DR. TIFF: I asked Professor Woltz the following: The cross-examination yesterday, R. Hardy quoted a document and drew from this document the conclusion that the Munich pathologist, Dr. Singer, refused to work with Holzloehner and Finke in the Dachau experiments for ethical reasons. I could find no document from which that could be seen, and, therefore, I asked Dr. Woltz just what document it was.

R. HARDY: Your Honor, that is an erroneous assumption on the part of the defense counsel. I didn't refer to a document. I merely asked Dr. Woltz from the documents in evidence was it a parent that Dr. Singer withdrew from the experiments and, if he did withdraw, was it for ethical reasons. I didn't state that such a document existed.

DR. TIFF: Then that settles that question. Now a final question.

Q. In the cross-examination you have said that the Luftgau physicians were subordinate to the Medical Inspectorate. For many years you were a member of the Luftwaffe and know how it was organized as well as I do. Now, please tell the Tribunal whether the Luftgau doctors were directly subordinate to the Medical Inspectorate or was there an intermediary office?

A. The Luftgau doctors were subordinate most of the time to the Air Fleet Doctors and thus only indirectly subordinate to the Medical

Inspectorate.

DR. TIPP: Thank you.

THE PRESIDENT: Any further questions of the witness?

The Defendant Wertz may be excused from the stand and will resume his place.

(The witness was excused)

MR. HARDY: May it please Your Honors, before defense counsel continues the presentation of his documentary evidence, I should like to inquire as to whether or not Defense Counsel for Wertz intends to call another witness at this time for the Defendant Wertz and then after the completion of the Wertz case, whether or not the Defense Counsel for the Defendant Brack intends to call the Defendant Brack to the stand first or to call one of his two witnesses, or in what process so that I can gauge my work over the following few days.

DR. WITTE: Mr. President, I was about to make a statement of this question. The witness Wendt was here, having turned up on the 24th of April. Now the interrogations of Ruff and Wenberg took longer than we had expected. Wendt is a doctor, an x-ray man, in Karlsruhe, and Wertz' previous assistant. I consequently released him after taking a long affidavit from him. The affidavit is here. It is about twenty typewritten pages and discusses the whole question in a perfectly satisfactory way. Now, so far, I have not yet succeeded in having this document translated into English, so that I can present it to the Tribunal only in German; and I assume that it is not possible to put it in unless we have the English translation. However, if you wish, I could tell the Tribunal what the important points in this affidavit are without, of course, actually reading it. If you wish, I could do that in a very brief way.

THE PRESIDENT: I think it would be better to wait until the English translation is complete.

MR. HARDY: If Your Honor pleases, I would like to hear from the Defense Counsel Froeschmann for Brack and see what his intentions are

and see what course he will follow in his defense.

THE PRESIDENT: Did Counsel for the Defendant Wetz understand my statement that the affidavit that he mentioned may be offered when its translation into English is completed?

DR. WILHE: Thank you.

THE PRESIDENT: Counsel for Defendant Brack, did you hear the question suggested by the prosecution as to whether or not you desire to call Defendant Brack to the stand before any other witnesses?

DR. FROESCHMANN: Mr. President, in the last few days, I told the Secretary General and the prosecutor in writing that it was my intention to call first the two witnesses, Hederich and Pfannmueller, and thereafter, if it please the Tribunal, to call the defendant to the stand.

MR. HARDY: That answers my question.

THE PRESIDENT: Very well, Counsel, we understand; you may follow that procedure. Counsel may proceed.

DR. WILHE: May it please the Tribunal, I may continue my case by putting in the documents that are to be found in Document Book No. 2. First of all, I put in an affidavit by Doctor von Wetz. This is of the 7th of January, 1947, Document No. 4; I put it in as Wetz Exhibit No. 11. I might say regarding this very briefly the following. Wetz is Wetz' oldest collaborator. He describes his own attitude regarding the Nazi party and his participation in the freedom action of Bavaria. For this reason he was condemned to death. I might read just a few lines of what he says regarding which it seems to me indisputable that I read the. I read from page 1 of the document, a sentence from paragraph 4:

"At the out-break of the war I removed my residence to Munich, as I had a sound reason for making a timely escape from persecution by the Gestapo. I was, therefore, glad to meet immediately with a good reception at the Research Institute of Aviation Medicine in Munich whose chief at that time was Professor Wetz."

Now from page 2 I read from the first paragraph:

"As he -- namely, Wertz -- was not only willing to acknowledge the value of my scientific views, but also respected my political convictions -- an attitude often scarcely compatible with his position as the head of the Institute, our association turned out to be an entirely harmonious one."

Then in his affidavit Wertz describes animal experiments at the Institute and describes, among other things, how two of Holzloehner's employees came to him for blood samples for Dachau. Professor Wertz has described that event from the witness stand. Wertz describes how that permission was refused. I read the last paragraph on the page, the last sentence:

"When the two members of Holzloehner's staff again turned directly to Professor Wertz in an attempt to borrow, at least, an apparatus for the determination of oxygen content, he consulted me and approved of my final refusal, expressed in the strongest terms."

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From page 4 of the document I read the last sentence. "I am not aware that Dr. Lutz or Dr. Wendt ever offered Weltz employment in Dachau. Such an offer was never made to me in any form whatsoever."

Now, Your Honors, I put in another affidavit from scientific assistant. This is Weltz' document No. 6; Weltz Exhibit No. 12. Dr. Pichotka, at the end of last year, when he heard that Weltz was under indictment, by reading it in the papers, made himself available to me. They are acquainted with each other through having exchanged scientific correspondence. They collaborated scientifically since they were active in the same scientific field. Like Herr von Werz, he points out the particularly dignified manner in scientific manners that Weltz had. Thus he says that Weltz frequently had research experiments in his Institute stopped when he heard that Pichotka was working on the same subjects. Weltz wanted to give his colleague Pichotka a head start. It is also important for this trial that he states that he knew of Weltz's efforts to keep a close watch on Rascher. He, therefore, also knew that Rascher, on the basis of the telegram from Himmler, was removed from Weltz.

As the next document I offer an Affidavit of Dr. Amann. This is Weltz Document No. 7, Exhibit 13. May I briefly explain this. Dr. Amann was a collaborator of Pichotka's, and his testimony is to the same effect.

The next documents are affidavits by former female assistants in Weltz's aviation medical institute. I offer them as Weltz Documents 8, Exhibit No.--

THE PRESIDENT: What exhibit number do you assign

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Weltz Document 8?

DR. WILLE: Eight is Exhibit No. 14; Document No. 9 is Exhibit No. 15.

The next is Weltz Document No. 10, an affidavit by Elizabeth Forgbert. This will be Weltz Exhibit 16. The next document is Document No. 11, which will be Exhibit No. 17. I may say a few words about this document; it is an affidavit by one Frau Erna Hoffmann, from Munich, who was in charge of a Luftwaffe rest center. She is not a Aryan, and gives information regarding Prof. Weltz's political attitude. Mrs. Hoffman was arraigned before a People's Court for undermining the defensive strength of the nation. Prof. Weltz spoke in her behalf although he exposed himself personally by so doing to great political danger.

The next document is Weltz No. 12, Exhibit NO. 18. This is an affidavit by a previous employee of the Weltz institute, Mrs. Pirner. The purpose of that affidavit is the following. Mrs. Pirner, in her boarding house, had made defeatist utterances and had said that it was madness to continue with the war. There was a trial for high treason against her. Weltz first succeeded in having the trial take place before a Luftwaffe court. In the main proceedings he, himself, volunteered from among the audience, and spoke in her behalf in such a way as to have her declared not guilty.

The next document will be Weltz Document No. 16. This will be Exhibit No. 19. This is an affidavit of Prof. Holthusen, of Hamburg, regarding Weltz's scientific significance.

As the last document in my collection, I submit

Court No. I.

Weltz document No. 22. This becomes Exhibit No. 20. This is an affidavit by Prof. Kirklin, the chief of the X-ray department of the Mayo Clinic. Kirklin here discusses his acquaintance with Weltz, as well as Weltz's professional reputation in America scientific circles. The letter was sent directly to me by Prof. Kirklin. There is, to be sure, no certificate of signature, but since it was sent directly to me on a form from the clinic, I have no doubts as to its authenticity. I showed this letter to the Prosecutor weeks ago and he said that he approved of it. Consequently, I don't expect any objection from him.

MR. HARDY: That is perfectly right, Your Honors, I stipulated that I wouldn't object to the submission of this. I merely want to state that I do not want to create a precedent. I merely want to reserve the right to object to the introduction of documents of this type in the future.

THE PRESIDENT: Your stipulation will be without prejudice.

DR. WILLE: MR. President, in conclusion of my case, I might now put in the certificate of authenticity regarding the Milch record, which I have received from the Secretary-General...

THE PRESIDENT: Did I understand Counsel to say that the certificate from the Secretary-General is now ready? Did I understand Counsel to say that the certificate from the Secretary-General is now prepared?

DR. WILLE: Yes.

THE PRESIDENT: Counsel for the Prosecution, examine the certificate.

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Court No. 1

MR. HARDY: (Examines certificate) The document is in order, Your Honor.

THE PRESIDENT: The document which is Weltz Document No. 3 is received before the Tribunal to be considered.

To save confusion, this document has been marked as Exhibit 7. The Tribunal will take judicial notice of it without its being marked an exhibit, but it is before us in this case as Exhibit 7.

Does that close Counsel's case?

DR. WILLE: Yes, that concludes my presentation.

THE PRESIDENT: The Tribunal now calls the case against the defendant Brack.

DR. FROMSCHLAGER: Mr. President at the beginning of the submission of the evidence in the case of Brack, I shall permit myself to submit to you a short presentation, in order to illustrate the point of view from which I shall submit my evidence.

It is my intention in order to refute Counts 2 and 3 of the indictment, to call at once the witnesses Hederich and Pfammuehler, and, then in order to refute all counts of the indictment, I should like permission of the Tribunal to call the defendant Brack himself as a witness to the witness stand. During this submission of evidence I shall submit the relevant documents.

The submission of the evidence by the defendant Brack himself will include: First, a short description of his life up to his entry into political life; Secondly, to Count I, conspiracy; thirdly; his attitude towards the Jews, in the preparation for the extermination of whom he is alleged to have participated through his proposals for sterilization in connection with his attitude towards National Socialism; fourthly, his membership in the SS, with which he is charged under Count 4 of the indictment; fifthly, to a general survey of Brack's activity in the Chancellery of the Fuehrer, considering especially his attitude towards the question of preventive custody inmates, which represented a large part of his activity. I shall, furthermore, deal with sixthly, the sterilization proposals, and afterwards the connection of Brack with the extermination plans of Himmler, which was dealt with by the Prosecution on the Form 14-F-13, which was called genocide by the Prosecution. Then, seventhly, I shall deal with his participation in the euthanasia program, and his attitude towards the euthanasia program. I ask the permission of the High Tribunal to submit the evidence according to this plan.

THE PRESIDENT: Now counsel may proceed, using his evidence according to the plan he has outlined.

DR. FROESCHMANN: Thank You.

MR. HARDY: Will you kindly supply me with the spelling of the name of the first witness, please.

DR. FROESCHMANN: Mr. President, with the approval of the High Tribunal, I ask that the witness Hederich be called to the witness stand.

THE PRESIDENT: The Marshal will summon the witness Hederich.

KARL HEDERICH, a witness, took the stand and testified as follows:

JUDGE SEBRING: The witness will raise his right hand and repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath)

JUDGE SEBRING: You may be seated.

BY DR. FROESCHMANN:

Q Witness, give me your personal data.

A My name is Karl Heinz Hederich. Born on 29 October 1902 in Wunsiedel, upper Franconia, as a son of a Secondary School Professor Hederich there.

Q Would you please describe your general career to the Tribunal?

A I attended the elementary school at Wunsiedel. I then entered the secondary school for a number of years. Then for several years I followed a practical profession in industry, and also worked in various building installations. In the year 1923 I went to Munich as a student, where I studied at the University. In 1925 I was graduated at Murnberg at the Oberrealschule. I then went to Munich as a student to the Technische Hochschule and the University, and from there I went to technical high school at Danzig. In the year of 1931 I made my examination as a Diploma Engineer. In the year 1932, to get

acquainted with the higher state administration, I was employed with the Reich Railway Directorate at Murnberg.

Q Witness, would you please speak a little slower.

A Yes.

Q Will you proceed?

A The aim of my education was a university career.

Q But you later became involved in politics. What was your political career?

A I joined the NSDAP on 29 October for the first time. After the march on the Feldherrnhalle, in which I participated, I left the NSDAP. In December of 1932 I joined the NSDAP for the second time. In the year of 1933 I was a member of the leadership of the German Student League. In the year of 1934 I went to Reichsleiter Bouhler.

Q Well, before you got to the Reichsleiter Bouhler, how did you become acquainted with this?

A As the result of a number of controversies, I left the leadership of the German Student League, but in April 1934 Bouhler asked me to attend a conference in Berlin, and at the same time made the suggestion to me to enter into his sphere of activity.

Q What were you to do there? What was your task to be there?

A At that time he was the President of the Party Commission for the Protection of National Socialistic Literature, and he wanted some collaborators on that task. I had been recommended to him by acquaintances of his. I only knew him slightly, as a result of my conversation with him, and after having told him about my views, and after he had told him his attitude, and his opinions, I decided to accept his offer. On the 1 May 1934 I then entered his office in Munich.

Q Witness, would you quite briefly describe to the Tribunal the work of this Commission that you are speaking of, because it will be of some importance with regard to what you will later testify to?

A The task of this Literature Commission was the cleansing of political literature from the phenomena that appeared at that time. During every political revolution, during every political reorganization,

as it happened in the year 1933, those in power were followed by a flood of Nazistic literature, and steps had to be taken to combat this. One could today use the technical expression "hyper denazification." This task was deliberately entrusted to Mr. Buhler, because for this task, a task of political hygiene one needed an agency which was entirely independent of political literature. Mr. Buhler had certain qualifications that equipped him for this task. My activity was a political organizational one, and I was to create the necessary prerequisites for the carrying out of that work.

Q Witness, what were the positions that you held in Bouhler's office?

A At first I was his business manager. Afterwards I developed for the commission, which contained a number of persons, a new office which I headed. Under my leadership it became a Reichshauptamt a little later. When in the year 1937 I left the Reich Ministry of Propaganda, Mr. Bouhler asked me to cooperate somewhat closer with his entire work. Within the sphere of the Fuehrer's Chancellery, the chief of which he was, he created a cultural political department.

Q Were you the head of that department?

A Yes, this department was later enlarged and was then subordinated to me.

Q As time progressed, did you more or less represent Bouhler entirely?

A In the course of all the developments, Bouhler offered his representation to me, and I was to be the chief of staff. This intention, however, never materialized because of certain political developments. In the year 1940 Bouhler had received the order from Hitler to re-organize the educational literature. The practical execution of that work was transferred to me.

Q You just used the expression "chief of staff". In the course of the evidence, this word "chief of staff" will play a certain role. Will you please explain to the Tribunal what at that time in Germany was understood by "chief of staff"?

A Under "chief of staff" one understands the position within an agency which has to coordinate the organizational work of the various departments within that agency. In the Party structure, one could compare that position with a ministerial director in a ministry. It is a central post for administrative tasks. As for who is in charge of political matters, it is always the head of every individual department, but never the chief of staff.

Q What were the tasks of your office within the Chancellery

of the Fuehrer?

A I had to co-ordinate the activities of Mr. Bouhler, which were very diverse in nature; on the one hand the Chancellery of the Fuehrer, on the other hand the activities connected with literature. In addition to such co-ordination tasks, there were individual tasks which referred to applications which were sent to Hitler, coming from the fields of science, high schools, publications, etc. I may, for instance, mention the treatment of the question of the Frobenius Institute or, for instance, the poet Walter von Molo. He sought the protection of Hitler because he felt himself oppressed by Rosenberg. He received this protection.

Q What was his name?

A Walter von Molo.

Q Thank you.

A I had to deal with a number of such questions within my department.

Q Witness, did you work temporarily at the Reich Ministry of Propaganda?

A I pointed out a little earlier that in the year of 1937 I was working in the Reich Ministry of Propaganda.

Q Would you please be very brief?

A Yes. Even at the beginning of his activity in the field of literature, Mr. Bouhler had a great deal of difficulty with regard to Dr. Goebbels, and Mr. Rosenberg at the Party publishing house. As a result of internal events, Dr. Goebbels decided in the year 1937 to employ a new staff in his literature department, and he approached Mr. Bouhler regarding me in that matter. Mr. Bouhler at that time was interested in arriving at some firm decision with reference to the difficulties as they prevailed with Mr. Rosenberg.

Q And then you again were eliminated from that department?

A Yes. In the year 1938 I left this ministry because of differences which I had with the Minister.

Q Witness, from your description of your career and your activity so far, we can conclude that you repeatedly came into contact with the former Reichsleiter Bouhler. You know that Reichsleiter Bouhler was alone the responsible person to execute euthanasia, and I am of the opinion that if Bouhler were still living, Bouhler would be sitting in the dock and not Brack. That is my opinion and not yours. I may assume, however, that considering the close relationship which is alleged to have existed between Brack and Bouhler, this similarity in attitudes may have come to light in Brack's activities, and for that reason, I should like to put a number of questions to you which deal with the personality of Bouhler, in order for the Tribunal to know what personality they are concerned with in considering the euthanasia program.

MR. HARDY: May it please Your Honor, I request that the Defense Counsel be requested to question this witness. He has a complete set of notes before him. He is reading from the notes, and in addition the question is a resume on the part of Defense Counsel. The Tribunal should be interested in hearing the witness testify, not in a legal argument here and a set of notes up there. I think we should put it on a more legal plane than it is on right now.

THE PRESIDENT: Counsel, the Tribunal will be grateful if you will lead this witness to testimony in connection with the issues before the Tribunal.

DR. FROESCHMANN: I only dealt with that question in order to give the Tribunal an opportunity to have a picture of the character of these two personalities which are going to be repeatedly mentioned.

BY DR. FROESCHMANN:

Q Witness, could you give us some statement about the Fuehrer's Chancellery, about the significance of the Fuehrer's Chancellery, and about the extent of your activity? Would you please do that as briefly as possible?

A Let me at first speak about the significance of the

Fuehrer's chancellery. Mr. Bouhler was the business manager of the NSDAP at first, and since in the year 1933 this activity was transferred to Mr. Schwarz, he became unemployed. When Hess assigned him to the position of the presidency of this Committee for the Protection of Literature, we also find that Hitler had arrived at the decision to re-organize his personal affairs. Previously Hess had had charge of them. Simultaneously with the appointment of Hess as the Fuehrer's deputy, the situation had changed, and Hitler expressed the wish to separate personal matters from Party leadership. Within the sphere of Hess' activity, Hitler's personal matters were dealt with by Albert Bormann. Hitler, however, did not like Albert Bormann, and when he was looking for a new person to take over the personal matters, he thought of Mr. Bouhler; and that is how Bouhler came to Berlin at the end of 1934, in order to create a new office to take care of Hitler's personal affairs, with the task --

THE PRESIDENT: Counsel, I understood that you desired this witness to give a brief characterization of Bouhler. If he will proceed to that subject and in a few words give a statement on Bouhler, the Tribunal would be glad to hear it.

Q Witness, I ask you to be as brief as possible. What was your personal attitude toward Bouhler? Did you enjoy his special confidence? Did you receive an insight into his personal life?

A There developed very soon a special degree of confidence between us. He gave me rather extensive insight into his personal thinking. He asked me to work closely with him, not only within our official work, but also personally. He often invited me to join his family, and the relationship was filled with confidence.

Q Did Bouhler also draw you into his confidence with regard to his opinion of his associates?

A Yes, Mr. Bouhler often took the opportunity to discuss his associates with me. At one time he asked me to submit data on the qualifications of his associates, and for this reason I got in touch with a well-known profession graphologist in Berlin.

Q What was the impression you gained of Bouhler?

A In connection with this question, I may assure you that I am perhaps the only person who is in a position to speak about Bouhler's personality, who is in a position to give some sort of comprehensive information about his inner attitude to life. For ten years I have been in close connection with him and I am sure that there is no question concerning his life that I did not have to discuss with him in detail, because literature extends throughout all spheres of life. We started from this. I may say that Mr. Bouhler was a quiet man, a man with personal reticence, a man of clean thinking. His mental attitude was generous, not at all dogmatic. He was a man that is generally called a man of liberal thinking. The differences, which resulted from different character peculiarities of his could not be managed by him easily. He did not have sufficient courage. He wasn't determined enough.

Q When Bouhler exercised his activity as the head of the Chancellery of the Fuehrer, did he have any difficulties? Were difficulties caused by other persons in different agencies?

A Bouhler's work had difficulties in so far as his assignment was never clearly limited and as a result he immediately had difficulties with the Reich Chancellery, which in the meantime had been working on a number of tasks for Hitler. In addition a strong controversy ensued with the staff of the Fuehrer's deputy situation, however, was mitigated when Hess was the chief of Hitler's staff because of Hess's personal qualities. When, however, at a later date, Martin Bormann took over the leadership of the party chancellery, the ensuing differences of opinion could not be prevented.

DR. FROESCHMANN: Mr. President, in this connection I should like to submit Document No. 14 from my Document Book, which is to be found on pages 36 to 38, as Exhibit No. 1. I shall have it handed to the Secretary General. This is an extract from the National-Socialistic Year Book of 1942.

From this Year Book, I shall confine myself to reading the two paragraphs which deal with this field of the Fuehrer's chancellery and work of the so-called party chancellery. I shall start reading from Document No. 14, this paragraph:

"The Chancellery of the Fuehrer has to secure the immediate contact of the Fuehrer with the party in all questions submitted to the Fuehrer personally. There are hardly any sorrows and troubles which are not submitted to the Fuehrer in boundless confidence in his help. The dealing with pleas for remission or suspension of sentences has developed to a particularly extensive field of activity."

I shall now read a short paragraph regarding the chancellery of the party and I quote:

"As from 12 May 1941 the Fuehrer has fully resumed the personal leadership of the party; the agency dealing with the affairs of the leader of the NSDAP is named chancellery of the party; its responsible leader is Reichsleiter Martin Bormann.

"All threads of the party work converge in the chancellery of the party. Here all internal plans and suggestions concerning the party, as well as all vital questions concerning the existence of the German nation and lying within the scope of the party, are handled for the Fuehrer. From here directives are given for the whole work of the party either by the Fuehrer himself or by his order. In this way, the unity, homogeneity and fighting power of the NSDAP as bearer of the National Socialist ideology is guaranteed."

Q Witness, I shall now continue with your examination. You have already spoken of the difficulties which Souhler had to face as a result of taking over the Chancellery of the Fuehrer, but Albert Bormann, the brother of Martin Bormann, was his aide, was he not? Didn't that create a stronger connection with the two agencies? Why not?

A No, there was an independent enmity between the two brothers for family reasons. Martin Bormann had come from the private chancellery and had then become the Adjutant of Hitler. He was a very ordinary personality without any particular distinction. He then had begun to have difficulties with his brother. There was no connection possible as a result of the connection of these two brothers.

Q Witness, in this trial, as well as in all the other trials which are dealt with by the Military Tribunals, one person plays an extraordinary part and his name was Himmler. What was Bouhler's relationship to Himmler?

A The relationship of Mr. Bouhler to Himmler was cool, reserved distant. Bouhler on the basis of his personal concept was in contrast to the ideology as it was represented by Himmler. He held no functions of any practical nature within the SS. His membership to the SS was merely formal.

Q Do you know that from your own knowledge?

A Yes. I do know that from my own knowledge, because I repeatedly had discussions of questions with Mr. Bouhler on numerous occasions; allegations were made by the SS and our attitude had to be defined.

Q Could you give us a brief character study of Himmler's personality?

A That is not quite possible for me, because I had no personal relationship to Himmler and I therefore am in no position to characterize this person.

Q What can you say about Brack's personality? Do you know Brack? How long have you known him?

A I have known Brack for a period of 12 years. He is the oldest colleague of Bouhler. He was already active in Bouhler's office when Bouhler was still in Munich. Mr. Bouhler, when Brack ..

was assigned to Berlin, took him along as his Chief of Staff. Brack then embarked upon the difficulties which I have already mentioned.

Q Do you mean Bouhler's difficulties?

A Yes, the Bouhler-Bormann, difficulties, the Bouhler-Himmler difficulties, and so forth. When trying to deal with these difficulties, Brack did not always find support which would have been necessary from Mr. Bouhler, that is by reason of the connections of Bouhler which I have pictured.

Q What was Brack's attitude toward his work?

A Because of these difficulties, Brack was relieved of his position as Chief of Staff. Some of the reasons for that can be found in his personality.

Q How?

A I know Brack as an open-minded man, who was always ready to help. He was far removed from any fanaticism intolerance or any narrowness of heart but he lacked a purposeful limitation to his concrete field of work. He lacked political consequential thinking and in my opinion these two deficiencies in the man, are the reason for his present misfortune.

Q You gave us this picture I assume on the basis of your acquaintanceship for twelve years?

A Yes. I have already said I have known Brack for 12 years. I have often visited his family; I know his parents; I know his sisters; and this qualifies me to give this judgment from here.

Q You did work with Brack in the Chancellery of the Fuehrer? are you in a position to tell the Tribunal something about Brack's field of work as briefly as possible?

A After the applications for pardons, and so forth, had been taken away from Brack's field of work and were dealt with as an independent office and after he was relieved of his function as Chief of Staff, Mr. Bouhler transferred to him the so-called

Department 2 of the Chancellery. The department was called "Political Complaints." The tasks of that office were not quite easily described too harmonious, because there was an abundance of questions and applications directed to Hitler which arrived at this office. There was a huge number of complaints. This is why it is difficult to explain this field of work from my own knowledge. I can illustrate the condition there, because I was present whilst Buhler was sorting the mail when Hitler himself entered the room unnoticed.

and after having looked at all this work he said "I know that there may be numerous enormous purposeless applications and letters by people who just grumble or denounce among that heap of mail, but I think that in one case or another questions may come up where the persons concerned are calling for help, where valid situations of emergency exist, and I demand that these people be helped. That, of course, gets a very thorough dealing with the correspondence necessary. We often had mail and it constituted applications for pardons and releases from concentration camps. There were applications regarding racial questions regarding mitigation in dealing with the Jewish question. There were complaints and applications with reference to the hereditary laws for the prevention of hereditary diseases.

Q. Did you ever discuss certain difficulties with the defendant Brack which he experienced when dealing with these matters in connection with a third person who played a public part at that time? I am now particularly referring to Martin Bormann, whom you just mentioned, and I am also referring to Obergruppenfuhrer Heydrich.

A. In both cases because of a number of reasons great controversy ensued, and that for different reasons. In the case of Heydrich I know that Heydrich wanted the elimination of Brack from Buhler's office, because he did not agree with the attitude of the defendant.

Q. What was that attitude?

A. In the case of Heydrich this was mostly concerned with complaints regarding the work of the Gestapo and questions regarding the release from concentration camps. I remember on the basis of a report which I received from Buhler, because he was accustomed to discuss all these basic questions with me, that Heydrich had demanded that he should separate himself from Mr. Brack, because he would have to accuse Mr. Brack of a grave breach of confidence. I don't know this incident in its details. I only know the basic attitude of Mr. Brack towards that incident. For that reason I know that we were here concerned with a breach of confidence as Heydrich called it regarding the questions of secrecy of SD files concerning a defendant of the SD.

Q. Do I understand you correctly, witness, it seems to be that Brack had given a defendant, an accused of the SD, insight into these documents in order to enable him to defend himself?

A. Yes, that is correct. Some person had been charged with something and Brack enabled that person to gain insight into the documents.

Q. That is sufficient. Thank you. How about the affair with Bormann, why did he quarrel with Bormann?

A. The difficulties with Bormann lie somewhere else. These difficulties find their reasons in the controversy between Mr. Bouhler and Mr. Bormann. The enmity of Mr. Bormann to Brack, which he only considered one point of opposition because his desires were extended through the entire field of work of Bouhler. From Bormann we always received complaints that the attitude of department two too was not rigid enough in its ideological outlook according to Bormann's ideas. He thought that this attitude was too mild. He wanted that a change be effected by Mr. Bouhler. Bormann succeeded in eliminating Bouhler's right of reporting to Hitler about questions of release from concentration camps, and so forth. This, of course, had as its result a radicalization, because naturally the manner in which these matters were reported to Hitler had its effect in the decision that Hitler reached.

DR. FRÖSCHMANN: Mr. President, I only put these questions because this relationship between Martin Bormann and Bouhler and Brack and Bouhler will play a considerable part later on. I ask you to excuse my taking up so much time of the Tribunal.

MR. HARDY: Enough time has been taken up with this question, exactly one hour, and I fail to see the materiality of the testimony thus far. I can't see the connection, I can't understand the testimony. After the witness is through testifying the Prosecution may well request an affidavit or something so that we can have a clarification of the testimony. The issues against Brack are very simple, the connection between Brack and Buehler are quite simple. This witness on the stand has testified he perhaps knows more about the activities of Brack than any man alive and I think we can get the facts of this case quickly rather than going around Robin Hood's barn in this manner.

THE PRESIDENT: Does counsel expect to continue with the examination of this witness in the morning?

DR. FROESCHMANN: Mr. President, I have concluded two-thirds of the examination of the witness Hederich. What I want to hear now refers essentially to euthanasia.

THE PRESIDENT: If the witness will testify to some facts relevant to the issues before the Tribunal we will hear him again in the morning, but I would suggest in the meanwhile that you talk the matter over with the witness and instruct him to answer to questions directly and rather more briefly and give the facts which will be of assistance to the Tribunal.

The Tribunal will now recess until nine-thirty tomorrow morning.

The Tribunal will meet the Committee.

(The Tribunal adjourned at 15:27 hours.)

Official Transcript of the American Military
Tribunal in the matter of the United States
of America against Karl Brandt, et al,
defendants, sitting at Nurnberg, Germany,
on 9 May 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their
seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States
of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants
are all present in court.

THE MARSHAL: May it please your Honor, all defendants are present
in the court.

THE PRESIDENT: The Secretary-General will note for the record the
presence of all the defendants in court.

Counsel may proceed.

KARL HEINRICH HEDERICH - Resumed

DIRECT EXAMINATION (Continued)

BY DR. FROESCHMANN(Counsel for the Defendant Brack):

Q. Witness, might I remind you first of all that you are still
under oath. Yesterday you had been speaking about the Defendant Brack's
activities in Department 2 of the Fuehrer's Chancellory. I want to
put this question to you. Did Brack in this office, Department 2
that is, have authority to make decisions on his own?

A. No.

Q. This authority to make decisions, did Reichsleiter Bouhler

have that authority?

A. Yes.

Q. What was the relationship between Bouhler and Brack with regard
to the point where Brack knew Bouhler's attitude regarding the



treatment of tasks assigned to him, Bouhler?

A. The relationship was such that Brack had to know Bouhler's attitude regarding this sphere of influence of his.

Q. Yesterday you had already talked about the fact that Bouhler's attitude as Chief of the Chancellery had been a tolerant one, is that correct?

A. Yes.

Q. Have you been able to make sure that Brack's attitude regarding the treatment of tasks which approached him, particularly regarding the release of concentration camp inmates and applications coming from various half-Jewish persons, was tolerant?

A. As far as I had opportunities to learn of Brack's activities, I saw them as being tolerant and generous.

Q. Another question. The Defendant Brack during his interrogation has spoken about a so-called Madagascar plan which in 1940 came up for discussion in the Chancellery of the Fuehrer and was dealt with there. Do you have any knowledge of a Madascar Plan?

A. Yes.

Q. What do you know about it? What was the aim of that plan?

A. It was the aim of that plan to develop and submit suggestions regarding the solution of the problem of homeless Jews which was to be solved by creating a new order in Europe which would give them a state system of their own. This was done from the point of view adopted by German policy of the time, namely, with consideration of the situation in Palestine and the Arab question.

Q. You've just spoken about the situation in Europe --I think that must be a mistake, you mean the situation in the world? Or was your statement aiming at the Jews living in Europe at the time?

A. In connection with the Madascar Plan, I'd heard at the time that the possibility existed that the war would come to an end, and correspondingly that suggestion had been made to Great Britain, and in connection several plans of a different nature had been developed

and in this connection I came across the problems contained in the Madagascar plan. Buhler in his sphere of work had it dealt with or dealt with it himself.

Q. This Madagascar Plan, did that have an anti-Jewish tendency?

A. As far as I am able to speak on the strength of my own knowledge here, no. It was my impression that this was an effort, as I'd said at the beginning, to solve the problem of homeless Jews by means of creating a special state.

Q. This special state, was that to create a home for the Jews on the Island of Madagascar? Is that correct?

A. Yes.

DR. FROESCHMANN: Mr. President, may I have your permission in this connection to quote from my document book, Volume No. 2, page 3. I am referring to Document NO 27, and it is Exhibit No. 2, which I would like to offer to the Tribunal at this point. It merely contains--

MR. HARDY: The prosecution has not yet received Document Book No. 2 of the Defendant Brack.

THE PRESIDENT: The Tribunal has not received the volume either.

DR. FROESCHMANN: Mr. President, may I remark in this connection that my document books have been handed to the Secretary-General's office three or four weeks ago, and that, therefore, I had the right to expect that these document books would be at the disposal of the Tribunal at the time. Only the Appendix 3 could be completed during recent days because a number of exhibits were contained therein which I myself only received in recent days. I need not read the document I referred to, I am merely offering it to the Tribunal with the request that you take judicial notice of it.

THE PRESIDENT: Will counsel again refer to the document number in his book.

DR. FROESCHMANN: It is Document No. 27, in the 2nd volume of my document book, and it is on page 3. It merely contains extracts from the encyclopedia and it deals with the psychological facts of

Madagascar.

THE PRESIDENT: What exhibit number do you assign to this document?

DR. FROESCHMANN: Exhibit No. 2, Mr. President.

MR. HANDY: May it please your Honor, the Secretary-General has put at my disposal a copy of Document Book No. 2, and if defense counsel cares to introduce it now, the prosecution will agree. However, I have an objection to the document in as much as the document is concerning the proposed plan to send the so-called homeless Jews to Madagascar, and this Tribunal is not dealing with matters of that nature. It appears to the prosecution that the document is immaterial and I object to its admission in evidence.

THE PRESIDENT: What is the materiality of this document, counsel?

DR. FROESCHMANN: Mr. President, in the course of the examination of the Defendant Brack I shall deal with the circumstances in detail why Brack particularly, and his collaborators, turned their thoughts upon the Island of Madagascar. The objection might be raised that that island was so uneconomical that the plan of settling Jews there could be considered just as cruel as their destruction, the extermination of the Jews, and in order to help this High Tribunal, which, I assume, of course, has full knowledge of these matters, it should also have a documentary basis to decide upon, and I had taken the liberty of submitting the document. That was all I was aiming at through it.

THE PRESIDENT: Defendant Brack is directly charged by the indictment with certain specific offenses. The Tribunal is in doubt as to the probative value in connection with any such proof as you mentioned as bearing upon the issues in this case, in so far as Defendant Brack is concerned.

DR. FROESCHMANN: Defendant Brack wishes to deal with the allegation of the prosecution that he had been hostile to the Jews and that he had participated in the plans of the extermination of the Jews,

and wants to prove that his attitude was directly opposite to this and he has always done everything possible in order to counteract the plans of Jewish extermination that he had heard of. That is, of course, the reason why this Madagascar Plan, of which the defendant has spoken during his interrogation, is considered to be relevant by me.

THE PRESIDENT: The Tribunal is of the opinion that the matter--- at least at this time -- is entirely without any probative value in connection with the issue before this Tribunal. The objection will be sustained with leave to re-offer the document later. As the evidence develops it may be determined that the letter has some probative value, but at this time the objection is sustained. The document will not be admitted.

BY DR. FROESCHMANN:

Q. Witness, when and how did you learn of the euthanasia measures adopted in Germany?

A. May I at this point draw your attention to my affidavit dated the 28th of June of last year which Dr. Robert Servatius submitted to the International Military Tribunal in Nurnberg?

Q. That document is not a document which I myself have submitted and therefore you cannot refer to it, but I do think that you can tell the Tribunal such parts of that document as may be of interest with regard to this special question which I put to you.

DR. FROESCHMANN: May I ask the Tribunal to give permission that witness Hederich may read from the affidavit submitted to the International Military Tribunal, such a few sentences as can answer the question which I have put to him just now?

THE PRESIDENT: The Document to which you refer has not been called to the attention of the Tribunal with the request that the Tribunal take judicial notice of the document.

DR. FROESCHMANN: The document was submitted during the trial

before the International Military Tribunal. It was submitted by my colleague, Dr. Servatius, as an exhibit.

THE PRESIDENT : I understand that, but it hasn't as yet been brought to the attention of this Tribunal. The Tribunal would like to examine the document.

MR. HINDY: May it please your Honor, the document referred to is obviously an affidavit of the witness on the stand. If he is going into the problem of euthanasia or the issues in this case, the witness is here, he can ask the witness without bothering with this document, or asking the court to take notice of another document. He has the witness available and can question him on that point.

THE PRESIDENT: The Tribunal would like to examine the document. Will you submit it to the Tribunal?

DR. FROESCHLANN: The document is in the hands of the witness. I myself don't have it.

(Document in question is handed to the Tribunal.)

THE PRESIDENT: Is there any English translation of this document available?

DR. FROESCHMANN: Mr. President, I myself don't have an English translation because I myself wasn't going to refer to the document. It was the witness who wanted to know something from it and inform the Tribunal of these parts.

THE PRESIDENT: Well, the witness may use the document to refresh his recollection, answer any questions that are material to this inquiry.

BY DR. FROESCHMANN (Continuing)

Q Witness, I repeat my question as to when and how did you learn of the euthanasia measures adopted in Germany, and I also would like to ask you to use the document in the sense which the President has just instructed you.

A Of the so-called euthanasia procedure, I heard at the beginning of 1940, when the matter had to some extent already made considerable progress, and according to my recollection there were sources of the clergy who got into touch with the Catholic Church and the Protestant Church, sources with whom I was working together.

Q So that until the beginning of 1940 you had had no knowledge that Bouhler or Brack were occupying themselves in any way with euthanasia measures, is that right?

A That is correct, I had no knowledge.

Q Did you speak about this with Brack?

A I don't think that I talked about these questions in detail with the defendant, but I did speak about them in detail to Bouhler.

Q In this connection I am only interested in one single question. Did Bouhler tell you in this connection about the fact that euthanasia measures which he was carrying out, or had carried out, had been discussed by him with judicial sources in the Reich?

A That was a very focal point of Bouhler's and one of the leading problems which occupied him for a long time.

Q What did Bouhler tell you about that at the time, as to whether he considered Hitler's decree of the 1st of September 1938 to be a legal

basis of legal nature?

A Bouhler himself --

Q Would you mind leaving the Mr. and Mrs. off because Bouhler is enough for us, you know.

A Bouhler himself regarding the legality and moral basis of euthanasia had no doubts whatever. His objections dealt with the formal legal shape of the tasks assigned to him and the legal formula. Considering the far reaching effects of the task, he wanted to avoid misuse.

Q Therefore, if I understand you correctly, then the train of thoughts which Bouhler had was that Hitler's decree meant to him a legally sound basis, but that in his opinion it was essential with regard to the general public that all individual measures which were now being used through euthanasia, or should be used, should be clothed in a formal Reich's Law.

A That is correct, and Bouhler's opinion was strengthened when because of these difficulties he offered Hitler his resignation, and when in the discussion which arose in that connection the legality of these measures was confirmed to him in that connection.

Q Just one moment. Your testimony would lead to the conclusion that Bouhler had spoken with Hitler about the necessity of a legal formulation of the euthanasia decree or order, or decree -- whichever you want to call it.

A Yes.

Q And then your testimony would further show that Hitler with regard to Bouhler's suggestion had turned that down?

A I am not fully informed about the exact contents of the Bouhler-Hitler conference, but the outcome was that it became Bouhler's view that his task was lawful, and that became the subject of further discussions with the Reich Minister of Justice.

Q Did the further developments in 1940 make it known to you that Bouhler also conferred with sources of the Reich Ministry of Justice continuously, that a draft law was to be obtained from Hitler?

A Efforts made towards such a draft law go back to the early stages of euthanasia.

Q How do you know?

A Bouhler told me that when I approached him regarding reasons which I had mentioned to you at the beginning of my testimony. He told me that when he described to me the task Hitler had assigned to him and Dr. Brack.

Q Did Bouhler tell you at the time that through his collaborators, and particularly Brack, such a draft law was to be developed or had been developed?

A Bouhler not only told me so but he even showed me on that, and other occasions, of extensive material which was to serve the drafting of such a law.

Q Did you yourself read the draft law?

A No.

Q And then what happened to this draft law?

A Bouhler, when disregarding the formal wording of his task turned out to be considerable, and when he had to decide —

Q You said that already.

A May I ask you to repeat the question. I got lost.

Q I want to put this question to you. Did you as months went by in 1940 learn of the fate regarding this draft law?

A I thought I had answered that by saying that Hitler had turned it down.

Q But didn't Bouhler confer with the Reich Minister of Justice regarding its draft law?

A Yes.

Q Well, then, what was the attitude adopted by the Reich Minister of Justice?

A Mr. Bouhler adopted the view that this was a matter for the Reich Minister of Justice and the Reich Chancellery now to achieve the proper formalae for this law. He himself found himself in considerable difficulties because on one side he was referring to an order from the highest

military commander at the head of the state, with all the functions which Hitler held, and on the other side he saw the responsibility of individual ministers whom he couldn't influence but from whom he was demanding that they in turn, if difficulties arose, should find the legal solution. That wasn't, after all, his task.

Q I am asking you, what was the attitude adopted of the Reich Ministry of Justice with regard to Bouhler's wish that a draft law should become law?

A As far as I know, the matter was left in abeyance. No further clarification was achieved except that on the strength of the conference between Bouhler and Hitler an agreement was reached between him and the minister that the matter was now being settled.

Q So that if I understand you correctly the Reich Ministry of Justice or the Reich Minister of Justice, in spite of Bouhler's considering representation, adopted the view that this matter was in order.

A That was my opinion, yes.

Q Did you hear about it, that the Defendant Brack too, had knowledge of the negotiations between Bouhler and the Reich Minister of Justice?

A Yes.

Q. Witness, in subsequent times you yourself didn't exactly deal with euthanasia measures but you had heard about them and you discussed them with various gentlemen in the Fuehrer's Chancellery, is that correct?

A. Yes.

Q. On the strength of such conversations, or any other conversations, did you ever come across the words "useless eaters" and that they would have to be removed in this way? Did you ever come across that?

A. The tendency hidden behind the words "useless eaters" has now only become known to me through evidence submitted by the prosecution, but from Bouhler's statement, as far as this problem was concerned, they would never have given me an indication of such an attitude.

Q. Did you hear anything about the fact or the question why Hitler's decree was issued just at the beginning of the war?

A. From statements which have been made available to me I have learned that we were concerned with psychological considerations.

Q. Well then, what was the type of the psychological considerations?

A. They were of such nature that they believed that the understanding of biological and hereditary problems should be awakened among the population.

Q. Just a moment. The eugenic and hereditary biological trends of thought, did they have a decisive value with regard to euthanasia?

A. As far as I am informed, that was the basic point of euthanasia; namely, that the problem of useless living beings - the living beings who had dropped below a certain level - should be solved by means of the mercy death.

Q. I think you have expressed yourself somewhat incorrectly there. The question of eugenics and hereditary biological theories do not, of course, have anything to do with what you just said.

A. Well, I wasn't really going to try to link it up.

Q. Well, I am coming to my final questions. Did you gather from

Bouhler's statements any knowledge regarding the point of view which he and Brack might have had when they considered euthanasia to be justified?

A. From the events I had more than sufficient opportunity to learn of Bouhler's attitude with regard to these questions. First of all, there were his considerations of a legal nature, and then there was the type of action he took with the objections raised from clerical sources. I had the impression there that the religious momentum connected with euthanasia, in connection with the objections raised by the church, occupied first place with Mr. Bouhler. I also learned from the legal arguments which he raised, a similar point of view that he was fighting for it passionately, that he wasn't merely concerned with the formal formulation of a task, but that he was interested in the legal conception and the lawful idea of the whole affair.

Q. Did Bouhler also tell you that the defendant Brack shared these views?

A. I always assumed that since Brack, with regard to all these questions, was, after all, only the deputy - the man to whom a task was assigned by Bouhler.

Q. I was just about to come to this last question. I have asked you earlier during your testimony whether Brack in his Department 2 had authority to make decisions of his own and you answered that question, of course, in the negative. Now, I wish to ask you which position Brack actually occupied within the framework of this so-called euthanasia program. Was he of the same rank as Bouhler? Did he have similar responsibilities, or was he acting on his behalf, or how can you describe his position?

A. Bouhler called himself the only responsible person when he talked to me about the problem of euthanasia and Mr. Brack. The part which Mr. Brack played was that of a subordinate official who had administrative and organizational tasks.

DR. FROESCHMANN: Mr. President, in the course of this trial, if I'm not mistaken, Karl Brandt's defense counsel submitted the document

NO 156. It was offered as Brandt's Exhibit No. 4A and 4B. That document dealt with a letter from the Chief of the Fuehrer's Chancellery, addressed to the Reich Minister of Justice Guertner, in which the author states that "on the basis of the authority issued by the Fuehrer, I am considered as the sole responsible person for the carrying out of the tasks which I consider necessary and I have given corresponding instructions to my collaborators". At the time the signature below this document could not be clearly identified. May I submit this document to this witness with the request or the question whether the signature over which this document appears will be recognized by him as being that of Bouhler?

THE PRESIDENT: The document may be submitted to the witness. If he can identify the signature, he may testify.

(The document was submitted to the witness.)

BY DR. FROLSCHMANN:

Q. Witness, will you please read through this document and will you answer my question as to who has signed this document? This is a photostatic copy, by the way.

A. The signature is that of Bouhler.

Q. Can you recognize it without doubt as being Bouhler's?

A. I can recognize it for certain.

Q. Well, I come back to my initial question now; namely, what was the position held by the defendant Brack within the framework of the euthanasia program?

A. I repeat, Brack's position was of a very subordinate nature and he was depending on Bouhler's orders.

Q. Would it be right for me to say that Brack, within the so-called euthanasia program occupied the position of a general secretary, shall we say?

A. I would say that that expression is too strong.

Q. It is, is it? Well, he was less than a general secretary?

A. I would say that the expression is too strong since Brack's

authority with regard to other departments was limited and since Bouhler always emphasized, when talking to me, that apart from his own sphere of influence the sphere of influence of the Reich Ministry of Interior prevented independent action and position in the euthanasia program.

Q. May I then state finally that, according to your statement, the defendant Brack, in the so-called euthanasia program, only had a subordinate position on the strength of which he had to obey Bouhler's instructions without questioning and in connection with which his activities were confined to the carrying out of such instructions as Bouhler would give him.

A. Yee.

DR. FROESCHMANN: Mr. President, for the moment I have no further questions to this witness.

THE PRESIDENT: Has any defense counsel any question to propound to this witness in connection with the case as it affects their respective clients?

DR. FROESCHMANN: I have no further questions, Mr. President.

BY DR. HOFFMANN (Counsel for the defendant Pokorny):

Q. Witness, you said that in 1940 the Madagascar Plan had been developed. What was the reason for which this plan was developed? Surely you could have left the Jews in Germany.

A. The reason for the development of this plan I have already dealt with in my initial answer, I thought. It was general considerations with regard to a peace of the future which one thought was imminent at the time. During the development and representations of that period, plans and suggestions were made regarding any inter-European settlement of that problem. As far as I am informed, as far as I could gather from Bouhler's statements, that is, it had been indicated to him that he needn't bother about that plan any further since it would be the subject of discussions if and when the time came, and the way I always understood that was that it meant it would be of inter-European

concern because the war was considered to be inter-European at that time. France was interested - any plan about Madagascar couldn't be discussed without France - and England was interested.

Q. All right, witness, but were there different plans, further plans, dealing with the solution of the problem? To be very exact, was the question of sterilization mentioned?

A. I don't know anything about that.

Q. You don't know anything about that?

A. No, I know now by the material submitted by the prosecution.

Q. In that case, I have no further questions.

THE PRESIDENT: Any other question by defense counsel? If not, the prosecution may cross-examine.

MR. HARDY: May it please Your Honors, the prosecution has no questions to put to this witness.

THE PRESIDENT: Counsel for the defendant Brack may proceed. The witness will be excused from the stand.

DR. FROESCHMANN: Of course, I haven't any further questions to the witness.

Mr. President, may I have the Tribunal's permission to call to the stand a witness whose name is Dr. Hermann Pfannmueller and his title is Obermedizinalrat?

THE PRESIDENT: The Marshal will summon the witness, Dr. Hermann Pfannmueller, to the stand.

(HERMANN PFANNMUELLER, a witness, took the stand and testified as follows.)

BY JUDGE SEBRING:

Q. You will raise your right hand and be sworn.

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION

BY DR. FROESCHMANN:

Q. Witness, please will you tell me your first and last name and the date of birth? Can you hear me?

A. No.

Q. Please, would you put on your headphones and I'll repeat the question, and then will you please make a pause so that the interpreter can follow, and will you then answer it?

THE PRESIDENT: Counsel will propound his question to the witness again.

BY DR. FROESCHMANN:

Q. Please, will you state your first and last name and your date of birth?

A. Dr. Hermann Pfannmueller. Born 8th of June, 1886.

Q. Witness, please will you tell this Tribunal briefly of your career and will you emphasize your medical training and the positions you held?

A. I visited four forms of the elementary school in Munich and then I went to the secondary school in Munich where I obtained the certificate entitling me to university training. I then studied medicine at the University of Munich, made my preliminary exams there, and in 1911 passed the state exams with good results. Subsequently, I worked at several institutes and also as a practitioner; that is, I worked in several hospitals and practiced and this included Munich. I then went to Dresden to the Women's Clinic where I had further training for six months, and then in 1913, upon being persuaded by my teacher, Krepelin - I am a scholar of Krepelin in Munich - I went to the mental institute in Weismuenster - Weismuenster, by the way, is in Nassau - in order to work under the head of that institute towards reorganizing the institute for modern psychiatric diagnosis and treatment. This was actually done, and then war came.

During the war apart from working in this institute I also had to deputize for the local general practitioner, and I myself was the head of research occupation.

Q It won't be necessary for you to go into all these details. Just speak more generally.

Q I then entered the state institutions in Bavaria at Homberg, where I became a medical officer, from 1916 to 1919. At the end of 1919 I worked at Homberg and in Homberg I operated a Red Cross observation hospital. At the same time in 1919 I went to Ansbach and central Frankonia following a call, and I was promoted to the next highest civil service group, which was entitled Oberarzt.

Q What was the Institution?

A Ansbach, in the municipal essential institute at Ansbach. Then I took over the department for seriously sick persons, since I had received my complete training as a doctor at that time, and dealt with neurological cases, since I had had complete training with that in Munich, and at that time I adopted modern therapy methods, and I had the honorary task of going to Degendorf and the Protestant Hospital of the Gruner Mission, where sick and insane children were stationed. At the same time I was building up a new department of a large hospital.

Q Doctor, will you speak a little more slowly, because the interpreters won't be able to follow you; everything you say must be translated into the English language, and therefore will you speak a little slower and take pauses?

A I assisted in the building up and equipping of a new nursing home for very badly deformed and insane children.

Q What was your further career?

A This took up the time until 1930. In 1930 I was appointed second deputy to the Chief of the mental institution at Kaufbeuren, and after a brief period he entrusted me with the organization of the welfare for mental patients in Suebia.

Q This was Bavaria, wasn't it?

A Bavaria, Suebia. I completed that task and during my activities in this sanitorium a number of scientific works were developed which dealt with the question of the care for an hospitalization of drinkers, etc. I don't want to list them all, but that was the bulk.

Q When were you finally transferred to Egelfing-Haar?

A First of all there was something else. In 1935 the Municipal Committee at Augsburg, through the local medical officer, appointed me the head of the Local Health Department, and the department for which I worked dealt with racial questions. As head of that department my leading task was the listing of hereditary diseases of the population, and the carrying out of a hereditary health law in the capacity of an experiment, and also the carrying out of the marital hereditary health law; also the psychiatric care for children, particularly school children and the liaison department from the medical department to the Psychiatric Department at Augsburg, and the transfer of cases that were in need of hospitalization.

Q Did you get to Egelfing-Haar?

A Let me add first of all that during this period from 1935 until my resignation from Augsburg I was honorary head of the Catholic nursing home for drinkers, and its department at Meitingen, which activity lead to it that lawyers consulted me in connection with hospitalization of drinkers -- according to Paragraph 42-C - consulted me as a medical expert. I do think that this is important. In 1938 without applying for this position and without having anybody's protection or help I became a director and head -- from a medical point of view -- of the mental sanitorium of Egelfing, which is the biggest of its type in Bavaria.

Q That is in Munich?

A Yes, 15 Kilometers from Munich.

Q How many beds did the mental sanitorium at Egelfing have?

A At the beginning of my work about 2500 and we increased that to about 3,000 beds.

Q And how many insane patients were there on the average?

A Well, again between 2700 and 2800, and approximately 3000. The figure of 3000 was, however, after exceeded.

Q Which age groups were represented in this hospital?

A Every age group, beginning with the smallest children to really old people, since I had a children's house which I had taken over from my predecessor.

DR. FROESCHMANN: Mr. President, the Prosecution in the course of its case introduced a number of documents which were showing that from 20 September 1940 transports left Egelfing which included Jewish insane people. For this reason I should like to put the following question to the witness:

Q Did your mental institution at Egelfing during the years 1939 to 1942 treat Jewish Insane people?

A Yes, in my hospital Jewish insane patients were present in two categories, they just as much as any other patients, were treated normally and they weren't in wards of their own.

Q What type of instructions did you receive regarding the transfer of these Jewish Insane people in 1940 and if so from what source did you get them?

A I don't know for certain what the date was, but I did receive a decision from the Bavarian State Ministry of the Interior, according to which a number of Jewish patients from all Bavarian Institutions, were to be collected in my hospital, that they should be placed in special wards, which I would have to clear for the purpose and that they were to be fed in the regular categories, and that they were to be taken care of and treated until they were transferred by authority of this Bavarian Ministry or the Department concerned in the Department of the Ministry of Bavaria. As far as my own insane persons were concerned, my own Jewish patients, they remained in their original wards until they were called away.

Q Did you have further instructions according to which these Jewish insane people were to be taken from their hospitals and should be brought away.

A Yes, they came from the State Ministry of Bavaria, and as far as I remember this stated these patients had to be handed over.

Q Is it possible that the transporting of Jewish Insane patients took place on or about the 20th of September 1940?

A Yes, I think that is the approximate time when these patients left.

Q Do you have any knowledge about the fact whether this departing transport of Jewish insane patients was connected with euthanasia measures of any kind?

A. No, it was stated that these patients were being transferred to a Jewish Institute.

Q. You were especially told that?

A. Yes.

Q. Thank you. Now another question. Witness, you have described in great detail what your career was and you have spoken about your psychiatry training, which basic attitude did you adopt with regard to the welfare and care of insane people, first of all with regard to their treatment, and, secondly, with regard to taking care of them?

A. Without wanting to speak about my own past, I want to tell you that I was a definite follower of therapeutic treatment. In psychiatric circles, in the pessimistic circles. The circles of Falkenhauser, I was called the Poli-pragmatic. It is my opinion with regard to curing of these patients that everything must be done and that every attempt is essential to help the insane patients and to make available to him curative treatment. I, therefore, belong to those practical psychiatrists who, together with Falkenhauser my friend and teacher, I do want to say that we, made every effort that the admission of patients and the release of the patients was a decision which should be made generally easier for the head of an institute, in order to get the cases there quickly when they were fresh and to remove them as quickly as possible from the atmosphere of a curing home, which always has a favorable influence. Likewise, for the same reason I was a convinced and fanatic follower of the principle of separating mental institutes and so-called curing homes which were to be looked after by psychiatrists, experts, people with scientific and expert knowledge, medical personnel from those institutes where the more simplified care of cases

could be carried out, no longer a therapy, I mean patients who couldn't be helped by therapy.

Q. So I can summarize that it was your point of view that every type of treatment should be employed in order to bring about a cure for such insane persons as could be cured?

A. Yes.

Q. And that they should be accommodated in so-called mental institutes, and on the other hand incurable insane people who only needed to be looked after - in other words, maintenance of their life should be accommodated in special institutes?

A. Yes, and in fact that happened in Egelfing. I refused patients who only were in need of care in order to make room for those patients who needed treatment and to keep any staff for the treatment of the insane patients.

Q. Then what type of insane people would psychiatrists describe as incurably insane people?

A. To put it briefly, is very difficult but let me say this: The point of view ought to be approximately that: incurably insane are those who are permanently in need of treatment in a institute and those for whom any contact with their surroundings from a social psychiatrist's point of view, in other words, the point of view maintained where the common feeling of a human being is lacking, that may be a final condition or it may be the condition of the beginning of idiocy. For instance, those insane patients who suffer from organic diseases of the brain, such as paralysis, epileptics-----

Q. Now, doctor, may I interrupt you please. Would you mind speaking into the microphone?

A. I didn't know there was one - paralysis, epilepsy,

idiocy, certain cases of idiocy are due to serious diseases of the brain, and in that case those due to interior disturbances, usually they are hereditary causes, but most of all the schizophrenia, also dementia praecox, those cases which we consider as hopeless persons who must be denied any contact with their surroundings and with the human community, and who also lack the capability of thinking normally, those who were in perpetual need of care and for years and those that could only be taken care of through outside help in a nursing home. They would have to be removed permanently from the community, because of the type of their disease, and the practical psychiatrist would best describe them as permanently in need of confinement to a mental institute they are a-social-

Q. Doctor, you have just used the word "a-social", do you mean by that in the psychiatrist's conception of the word a-social?

A. Yes, and in connection with it I want to point out that the a-social insane might be particularly aggressive as the disease goes on and particularly as the type and development of the disease shows itself, and that he can be considered an a-social because of his aggressiveness.

Q. Doctor, might I ask you to perhaps illustrate by means of two or three brief examples to this Tribunal, just what such cases are, such cases of incurably insane people, I mean would you offer a descriptive example of such people?

A. I don't want to quote those cases of serious idiocy who are bodily reduced who cannot be spoken to with whom one cannot make contact, that fall into a coma, who are anxious to destroy are physically aggressive and who need feeding by hand and who can no longer cope

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with the normal requirements of their body, who are dirty, not only dirty with dirt, and urine, but who would smear about such excretions, have no feeling of pain and who no longer demonstrate even simple emotions. I only want to deal with the final stages of schizophrenia, that is, with human beings who commit senseless actions, senseless not only towards their fellow humans, but who actually become a-social because they may kill members of the medical staff. I myself have experienced four cases when the most valuable members of the staff became the victims of such insane patients. Many fell ill, and many at the age of forty or forty-five, became useless and old, let me talk about those who inflicted upon themselves serious damages, who removed their testicles and tore them out, patients who damaged their mouths, not because they wanted to commit suicide but simply because they did not understand their own actions, patients who maimed themselves in the most serious manner, I think that ought to be enough.

DR. FROESCHMAN: Mr. President, in this connection I want to submit from my document book the appendix No. 3, I beg your pardon, it is appendix 2, appendix 2, and I am referring to document No. 45 on pages 36 to 44, which is an edition of the periodical "Life."

THE PRESIDENT: We don't have that appendix to your document book.

DR. FROESCHMAN: I have submitted it Mr. President, it follows Brack No. 2, and it is at least a fortnight ago that I did so.

MR. HARDY: The Prosecution does not have a copy of that, Your Honor. However, it is apparently a magazine which gives conditions in the US mental hospitals, United States, and this evidence will come under the category of that

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evidence with the Tribunal has ruled will not come up and will not be offered in evidence until a later date.

DR. FROESCHMAN: Mr. President, I was going to ask the witness, Dr. Pfannmueller, just one question, namely, whether such types as are depicted in this periodical by means of photographs, whether they are the types which he has just talked about.

THE PRESIDENT: It is a matter of common knowledge that such types exist all over the world, such types, of defective mental exist everywhere and the Tribunal will take judicial notice that such types are found everywhere.

DR. FROESCHMANN: In any case, Mr. President, I wasn't trying to make the impression, if I have, of only describing the condition of insane patients in America.

THE PRESIDENT: We understand that counsel.

DR. FROESCHMANN: There was a German book I was going to submit to the Tribunal which contains the same type of pictures. May I then, Mr. President, submit the document No. 45, as Exhibit No. 3, may I submit that to the High Tribunal as my next exhibit?

THE PRESIDENT: We do not have the document book.

MR. HARDY: I want to object to the submission of this document until such time as I have time to pursue the document. I haven't seen the document and the Prosecution hasn't been presented with the document defense counsel refers to.

DR. FROESCHMANN: In that case I will put that back until the document book is ready.

THE PRESIDENT: We will recess for thirty minutes and possibly during that time counsel can examine the document book.

THE MARSHAL: The Tribunal is again in session.

MR. HARDY: May it please, Your Honor, this Brack exhibit which is Document No. 145 is contained in Life Magazine of 6 May 1946 edition; it narrates the bedlam of 1946; the title is "Most U. S. Mental Hospitals are a Shame and a Disgrace." I want to pass the exhibit up to the Tribunal for their perusal much as the Prosecution deems it immaterial. The conditions in the Insane hospitals of the United States are not at issue here. The question whether or not the inmates shown therein as fit subjects for euthanasia. It does not seem the Prosecution fails to see the relevancy of the document.

DR. FROESCHMANN: Mr. President, I state expressly that the text to these pictures was in no way intended by me as evidence in the case of Viktor Brack. I limit myself exclusively to the question to the witness whether such types as pictured, there are the types of incurably insane persons, and I also limit myself to the question of whether the photographs in this German vest book of psychiatry by Fleussner, on page 405, following are also such types. The book itself has been given me by a third party and I cannot offer it in evidence, but I believe that an inspection of these photographs would be of interest to the Tribunal and would be useful for the examination of the witness as to whether these are types of incurably insane persons.

MR. HARDY: With reference to this book containing the 30 pictures, Your Honor, has stated the Tribunal will take Judicial notice of the conditions of such people as existing all over the World, hence I don't see the necessity of showing these pictures to the witness.

THE PRESIDENT: The Tribunal takes Judicial Notice of the fact that all over the world, in every country, civilized or uncivilized, there are insane people, incurably insane people of various degrees, many who have no mentality at all, as described by the witness, and the Tribunal is of the opinion that admitting exhibits containing pictures showing such people is submitting a matter of no probative

value before the Tribunal, and add nothing to the Judicial Notice which the Tribunal will take of such situations. Counsel may further interrogate the witness as to what class of persons he deems subjects for euthanasia, if the witness does deem any person a proper subject for euthanasia. That is a different matter, but insofar as counsel showing pictures and descriptions of incurably and hopelessly insane people the Tribunal takes Judicial Notice that there are such people everywhere.

The objection to the admission of these exhibits is sustained.

DR. FROESCHMANN: In view of this ruling may I at least show this book for their notice?

THE PRESIDENT: Yes, counsel may exhibit the book to the Tribunal.

Q Witness, You have heard the statement of the Tribunal just now. Later when I speak of euthanasia of incurably insane persons I shall come to this question. Now I shall continue in my case, and I ask you did your institution in Emslang have a children's ward?

A Yes.

Q How were these children treated?

A The children's ward, the so-called children's house I took over from my Predecessor under the doctor who always was in charge of this house, and the children were all without any distinction as to the nature or course of their disease, or their social position were all treated in the same way, were all given the same ration, the same that according to regulations existed in such institutions.

A The children had especially good food even during the war. They had whole milk, hot cereal, marmalade, additional fruit rations and easily digestible childrens' food and that food prescribed by childrens' doctors, milk in all forms. The children were treated just as they always are elsewhere.

Q Witness, what is meant by children with serious hereditary and genital diseases?

A This means children who are completely incapable of taking a place in human society, who are mentally or as a result of disease, a severe infection, for example, a brain disease in their early youth, who are so ill that any social care of the child outside of a specialist in an institute is quite impossible. That these children have a life span which is limited, and may I add something else, this includes serious physical deformities, for example, the lack of members. I had one child who had no arms and legs, only just the trunk, and deformities where it is hardly possible to feed the child; where the children have to be fed artificially. I had a child with an open heart, and a deformity of the bones so that the brain is exposed, and spinal deformities with paralysis as a result of congenital blindness and deaf and dumbness, other serious defects, microcephal and macrocephals.

Q Please speak a little more slowly, witness.

A Microcephals, macrocephals, and I believe that is about enough and idiots, complete idiots.

Q Now, doctor, have these children whom you have just described so vividly, were they treated in any other way than children who, so to speak as a layman, have less severe mental diseases and who were taken into your institution?

A No.

Q Doctor, I may point out to you that the Prosecution has submitted a document. This is No. 863, Exhibit No. 333, in the German document book 14, part I, page 17, and in the English document book 14, page 21. This document contains the testimony of a certain Ludwig

Lehner, who in the fall of 1939 was at your institute for a visit as a medical student. Now I show you from my document book, I show you this document and I ask you first to comment on his statement that you, doctor, and it could only have been you according to the description which he makes of the person, that you, doctor, on this tour took such a poor child out of the bed and showed the child around like an animal as it were, and said: "We let these children starve to death. This is much simpler. People abroad will not be able to object if we starve them this way." I have already given you a copy of that document. You have this?

A Yes.

Q Now, please doctor, comment on this document No. 863.

A When I read the document I was not only astonished at the incredible contents, but horrified. First of all lecture tours with demonstrations in my institute were conducted in exactly the same way as my predecessor conducted them. The purpose of these tours was to inform the public about the necessity of preventing various diseases, mental and nerve diseases, and the misfortune which falls upon humanity when such children are born, and to inform and instruct the people about this misfortune. First, I may say one thing, an admission ticket, I never issued in my whole life, and I never saw one. That is an invention. Second, the tour which Mr. Lehner speaks about, he is apparently a teacher, not a medical student according to the document, this is supposed to have been in the fall of 1939. I never spoke about euthanasia at all. Euthanasia was a top secret matter. Besides in the fall of 1939 as far as I know euthanasia had not been started and nothing was done to children. I talked about hereditary diseases, and for example I showed feeble mindedness was hereditary and I showed conditions and I told the people how important it is to pass a law like the hereditary health law to carry it out thoroughly and openly. If one says, and I must go into individual things here - if he says I tore a poor child out of its bed with my fat hands, I would say in my

life I never had fat hands. I certainly never grinned at such a thing. I never laughed. I was always fully aware of how serious the matter was. I never pulled a child out of its bed. The child was quietly picked up by the nurse according to the condition it was in, and held in her hands and in her arms and shown to the people who were present. The priest Hans Jacob from Baden, a writer who is famous for his description of his Swiss tour, a Landtag delegate, a Catholic priest, described such children after going to an insane asylum in Baden, in one of his Swiss tours, and said - and I never said that he believed that these children --- I can't remember his exact words, - but this about what he said: Nobody knew how they were created, whether they were the work of a devilish invention. I never said that. I only pointed out the horror of this condition and the necessity for relieving these poor creatures and their relatives of pain and the child of suffering, and by passing the hereditary health law as the greatest good given to the Nation.

Q Doctor, just a minute. May I point out something to you at this point. You are supposed to have said that these creatures, meaning these children, of course, represent for me as a national socialist merely burdens for our national health, please explain that?

A I can say even if this child was to be charged from the point of view of euthenasia, I never looked at this child from the point of view of national socialism. Euthenasia and the affairs of the Reich Committee in my opinion had nothing to do with national socialism. It is like the law for the prevention of diseases of progeny and the Marriage Laws, which are laws, legal measures, which happened to arise under the National socialist regime. The cause, however, goes back for centuries. Gentlemen, regarding such a child starving to death was not mentioned at all, for nothing was being done at all in the children's house at this period. I reject such a thing. These are probably the subsequent interpretations of an opponent.

Q. Doctor, what did the Reich Ministry -- I shall repeat -- what did the Reich Ministry of the Interior do, in fact, what regulations did it issue concerning these children that you have spoken of, these cretins and deformed children, in 1939?

A. In 1939 no regulations were issued concerning these children. I know nothing about it and my pediatrician knows nothing about it either.

Q. Then when did you learn of such regulations?

A. I should like to say that the date of the establishment of the Reich Committee Station for handling and dealing with deformed children, I don't know exactly the proper term now, I cannot remember the date, but I always thought it was in 1941, but it is not entirely impossible that it might have been in the late Summer or Fall of 1940. I cannot say exactly today. But may I continue and tell you how it happened. First, I was called to the Bavarian Ministry of the Interior, the Health Department; there were some gentlemen there from Berlin. I remember Dr. Wenzler, and the establishment of the Reich Committee Station in Bavaria was discussed. So far as I can recall, the head of the children's clinic in Munich was present, and I believe this station was to be set up in the children's clinic, because of the necessity of operating on these deformed children frequently. If I remember correctly, that is, please, I can tell you only what I just happen to remember, this was explained because of the lack of space and lack of personnel, that this Reich Committee Station could not be set up there, and then the conclusion was reached that the Reich Committee Station was to be set up in my institution, because there was a children's house there, and because there were a number of cases who were idiots, cases of children psychiatry, deformity, neurological cases, and, I believe it was the Deputy President of the District Association who was to have economic supervision in my institute, who put the children's house at disposal, and I was told to take over the Reich Committee Station. I asked them for a doctor to take charge of this station and he was given to me

to take care of the children's clinic.

DR. FROESCHMANN: Mr. President, may I ask whether Supplement 3 of my document book is in the hands of the President as yet. I handed this Supplement 3 in, as I have already said, only a few days ago, because I had just obtained this final document. If that is not the case, then I shall come back to this supplement later.

THE PRESIDENT: We have only the document books one and two.

BY DR. FROESCHMANN:

Q. Doctor, you were saying that in 1940, you think, and in the beginning you said '41, you learned that the Reich Committee to deal with such people existed, is that true?

A. Yes.

Q. It was only at that time that you learned that the general directives were finally issued by the Reich Ministry of the Interior at Berlin?

A. Yes, I learned of that first at the time.

DR. FROESCHMANN: Since the Tribunal does not yet have this supplementary document book, I shall not now wish to present the document.

THE PRESIDENT: We have just received what is entitled "Supplement I of the Brack Document Book". Is that the supplement to which you refer?

DR. FROESCHMANN: No, Mr. President, I am now speaking of Supplement 3.

THE PRESIDENT: Now we have Supplement 2.

MR. HARDY: Your Honor, I have Document Book No. 1, which takes me to Document No. 25, and I have Document Book No. 2, which takes me to Document No. 40. Then I have the supplement which is an excerpt of the Life Magazine, that is Document No. 45. Other than that I have no other document.

THE PRESIDENT: Supplement 1 contains the documents Nos. 41 to 44 inclusive.

MR. HARDY: I don't have that, Your Honor.

THE PRESIDENT: Copy must be available because it was just handed to us.

DR. FROESCHMANN: Mr. President, I shall not go into this Supplement 3 at this point in order to avoid delaying the Court. But in the course of the examination of the defendant Brack I shall come back to this document. However, I may tell you, Doctor, that the prosecution in the course of the trial has submitted a document with a number 1696-PS, Exhibit No. 357, which is in the English Document Book 14 - you will find that in 14. I will give you the exact page. In the German Document Book it is page 128. I shall find the page in the English Document Book. This document, Mr. President, was submitted only in part by the prosecution. I got a photostatic copy of the original document from the Secretary General; I see from it that the photostatic copy has other pages which the prosecution did not submit and, because these pages were not submitted, I have, by way of precaution, included these pages as a document exhibit in Document Book 3. Pages which were not submitted contain a reference to the ministerial decree of the Reich Ministry of the Interior on 18 August 1939. They contain first of all an information for the official doctor showing that such severely deformed children can be sent to a special asylum; second, that every attempt will be made there to treat these children with all modern means of therapy, and, thirdly, that this may be done only with the approval of the parents.

BY DR. FROESCHMANN:

Q. Doctor, now I will ask you, do you know of such instructions of the Reich Ministry of the Interior, such instructions as I have just described to the Tribunal.

A. Subsequently, after the Reich Committee Station in the children's house was created in the Egelfing-Haar Mental Institution, I learned of these directives, which were not sent to me as head of the institution, which I did not know about, because I was not a government doctor, and I had not been informed that there was any obligation to

report such a case. I don't know why, because I had children who fell under the provisions of this law; but now I refer to a document which I have obtained from the defense counsel, and I have noted it down here. It is in Volume 14,2, pages 88-90, NO-1138/349.

Q. That is NO-1138, Exhibit No. 349 in the German document book 14, volume 2, page 88, and I shall find out later what the page of the English document book is. It is page 151 in the English document book, 151. Go on please, witness.

A. Gentlemen, I think this is an important document. On 1 June 1944 I had transferred a child which from a psychiatric and pediatric point of view fell under the obligations to report on 1 June 1940 to the Institute Schoenbrunn for highly idiotic children, near Munich, for care. Then I was told from Berlin that I was to give the report on this child, on the child's condition. On 1 June 1940 there could not have been any Reich Committee Station, or institution, because I sent this child to Schoenbrunn. In the second place I obviously had no idea when I transferred this child that I had to report it, because I sent it to a mental institution without reporting it, and I was asked to get an opinion on this child. Apparently this child came under the provisions of the law at Schoenbrunn when this institution was registered, and because it was a child, the registration form was forwarded to the

corresponding Reich agency. That is my assumption. Of course, I don't know that from my own knowledge.

THE PRESIDENT: Counsel, the witness is not on trial before this Tribunal and I fail to see the relevancy of much of this testimony in regard to the case against the defendant Brack. The witness has been explaining certain documents which apparently reflect on him, but he is not on trial here.

DR. FROESCHMANN: Mr. President, I singled out this case only because in the examination of Brack I shall have to deal with this document as an example of the prosecution's evidence because the prosecution with these documents, including this particular document, intended to prove that all the things in which Brack was concerned which are stated in these documents, were against humanity and are war crimes. Therefore, since this witness can give information about these documents, I have asked him about them. I realize that I must avoid everything that might be a personal defense of the witness. I have nothing to do with that. I am merely commenting on these documents in the course of my defense against Count II of the indictment.

THE PRESIDENT: Counsel may proceed.

BY DR. FROESCHMANN:

Q. Doctor, we'll go on now and come to the questionnaires, very generally, which were introduced under the Reich Committee. Unfortunately, we do not have such a questionnaire in the documents. Can you remember the contents of these questionnaires of the Reich Committee?

A. Yes, I will tell you everything that I can remember. First, the personal data were required of the child, then the hereditary situation. Then it was asked, as far as I can remember, about difficulties at birth.

Q. We don't need to hear all these details. Just a general outline. I understand you correctly, the causes were asked about?

A. Yes, and then the causes of the condition of the child has to be described very carefully and it finally asked whether any measures

had been taken -- any therapy against the disease -- and then, as far as I can remember, it was asked what the child's life expectancy was and whether the child could be expected to take any useful place in society. Something like that.

Q. These questionnaires, Doctor, were later sent from Berlin to the government doctors with instructions that when such births occurred the questionnaires were to be filled out and sent back to Berlin?

A. Yes.

Q. If I speak of Berlin, I don't know whether you and I understand the same thing. You were talking about Berlin before. What did you mean by that?

A. When I said Berlin I was talking about the Reich Committee. That's the only agency I had anything to do with there, and to complete my answer to the last question I can say that the questionnaire was published in some ministerial journal or some law journal. It was printed there I believe by the Reich Ministry of the Interior. I learned of that only later when the Reich Committee Station already existed in my institute. I think my clerk told me so. At any rate, the duty of midwives to report and doctors, etc., was mentioned.

Q. Another question. In the proceedings before the Reich Committee there were experts working?

A. Yes, I learned of that later.

Q. You knew nothing of it at the time?

A. No, I knew nothing of it at the time. I knew nothing about the method.

Q. And then, I assume, you know nothing about who decided that a child was to be sent to such a specialized clinic?

A. No, I know nothing about that.

Q. Doctor, I come now to a question which, under German law, would give you the right to refuse an answer.

Mr. President, I should like to ask you to instruct the witness that, in the case of questions which might expose him to prosecution,

he may refuse to answer.

THE PRESIDENT: Is the witness now under indictment or charges?

DR. FROESCHMANN: Not that I know of.

THE WITNESS: No, I have received no indictments. I have merely been interrogated.

THE PRESIDENT: The witness is however under restraint.

DR. FROESCHMANN: Yes, Mr. President.

THE PRESIDENT: Well, the witness is instructed that, if in his judgment, to answer any question propounded to him would tend to incriminate him or subject him to indictment, he has the right to refuse to answer the question.

BY DR. FROESCHMANN:

Q. Did you understand that? You have the right, if you are asked a question which might involve you yourself in a trial, to say, "I refuse to answer". You may answer it if you wish.

Now, I ask you -- when, later, in your institute a Reich Committee Station was set up, were deformed children sent to this Reich Committee Station?

A. Would you please repeat that?

Q. Is it true that later -- 1941 or 1942, I'll leave that time open -- in the provincial mental station, there was a so-called Reich Committee Station for these children?

A. Yes.

Q. Who told you about that?

A. That was the result of a discussion in Munich in the Ministry.

Q. Now, did you receive authorization from any source to treat these children according to modern methods of therapy and, if the treatment was completely hopeless, to shorten the life of these children?

A. Yes, that was in the letter of authorization.

Q. From whom did this letter come?

A. As far as I remember, from the Reich Committee.

Q. And the Reich Committee was headed by

A. (Interrupting) I must tell you I don't know from my own knowledge.

Q. Then you say that you received authorization? It was in writing?

A. Yes, it was in writing, authorizations for every individual case.

Q. You received separate authorizations for each case; that these deformed children - idiots, etc. - were to be treated by the modern methods of therapy and if these cases were hopeless then the life should be shortened? Is that true?

A. Well, it didn't say that the children's lives should be shortened.

R. HARDY: May it please Your Honors, I object to these leading questions on the part of the defense counsel. It seems to me that the witness is a psychiatrist, he is the chief of a mental institution, and that he is familiar with the euthanasia program and is fully capable of answering the questions without being led in this manner.

DR. FROESCHMANN: Mr. President, I am not aware of having asked any leading questions.

THE PRESIDENT: Counsel may proceed.

BY DR. FROESCHMANN:

Q. Doctor, the last question in this connection. Do you know who, in Berlin, reached these decisions that a child was to be assigned to the Reich Committee Station?

A. I learned later that the questionnaires on children which were received were examined and the medical opinion was expressed on them. Who decided, I don't know.

Q. Then, I shall close this chapter about the Reich Committee for Children with Severe Hereditary Diseases and I come to the second procedure: Euthanasia of the incurably insane.

Q I should like to ask you first to explain to the Tribunal your fundamental attitude on the question of euthanasia?

A Gentlemen, I have a positive attitude toward the idea of euthanasia. I am an advocate of the subject of euthanasia. I know the literature on the subject. I have given considerable thought to the problem of euthanasia. I was interested in it already as a medical student. When my father was dying, he suffered severe uremic attacks repeated every few minutes, a terrible sight, not only for myself but for my poor father. The doctor finally shortened my father's life. Later I became an advocate of it as a practicing psychiatrist, after a sight of the misery in the mental institutions and the distress of the mothers and fathers of these children. That is why I looked at euthanasia positively. And I put myself at the disposal of the Reich Work Union when I was called upon. I know the opinion of important German professors and their attitude upon euthanasia, and I personally and seriously accepted the idea.

Q Doctor, is it true that there are two kinds of euthanasia up to 1939, namely, aid in dying, that is relieving the pain or failure to administer stimulants, and aid to die, that is giving drugs if it was certain that death would occur very shortly, and the terrible death struggle such as you have just described in the case of your father could be shortened?

A Yes, this distinction was made. I once talked of a major and a minor euthanasia, the minor euthanasia the simpler aid in dying and the major euthanasia which is intended for individuals incapable of living, such as Kretschmer and Hans Jacob and others have advocated.

Q Doctor, what was done in 1939, if I judge the matter correctly, is considerably different from the type of euthanasia customary up to that time, that is to shorten the lives of the incurably insane who might live for years or decades possibly in this painful condition in as painless a way as possible, is that true?

A That is true only insofar as these patients, of course,

were not in eminent danger of death and were included in the drive of the Reich Working Union, but even these cases could not in any case be expected to live very long. Nobody can predict that, of course, but I wrote a paper once on the life span of incurably insane people and I proved my statistics that, outside of institutions these cases have a shortened life span. This work was given great attention in Dutch medical circles, and I got a good criticism in a Dutch paper which was sent to me by a Dutch doctor.

Q Now, doctor, how did it come about that you worked in the so-called euthanasia program, in the general consideration of the procedure within the euthanasia program?

A One day, I am afraid I don't know the time exactly, I thought it was in 1940, but I can't deny the possibility that it might have been in the early winter or late fall of 1939, I received a registered letter from the Chancellory of the Fuehrer with a request to report in Berlin at the Chancellory of the Fuehrer for a conference, at a certain meeting.

Q Well, now let me interrupt you; do you know whether the invitation itself came from the Chancellory of the Fuehrer or from the Reich Ministry of the Interior in the office of the Chancellory of the Fuehrer?

A As far as I recall the envelope had a stamp on it "Chancellory of the Fuehrer", and as far as I remember it was signed "Bouhler."

Q That will be enough, Witness, now what was the subject of the discussion at this meeting?

A As far as I can remember this meeting, which was a very long time ago, my impression was that the separation of the mental institutions into curable cases and incurable cases. That was my impression at this conference. The transfer of certain patients, to provincial institutions, was discussed. I thought that certain serious cases who could not be treated psychiatrically were to be transferred

to special institutions.

Q Was the word "euthanasia" used?

A As far as I can remember the word "euthanasia" was not used.

Q Witness, after this meeting passed, a few weeks later, even longer, were you asked to work as an expert in a procedure judging these insane people?

A Yes, I was in Berlin repeatedly. I took care of the questionnaires of the patients in my institute on whom questionnaires were drawn up, and then I was called into a meeting in Berlin where as far as I remember I think there were some professors there too, but in any case there were psychiatrists and doctors. I considered that a meeting of expert judges, and we had a discussion and were given directives on judging the questionnaires, and I believe this was beforehand that I was asked to work as an expert judge.

Q Who was in charge of these conferences, was that Boehler or Linden?

A No, I think Linden was there. I think Dr. Brack was there, but I can't say for certain. I don't believe Boehler was at this conference, maybe only temporarily, I can't say for certain.

Q Now, what did you do as an expert judge?

A I received an appointment, a letter from the Reich Ministry of the Interior. I can't say exactly whether it was signed by Linden, but I received a letter in the name of the Reich Work Union, and I don't know how it read, but in any case in the program of the Reich Work Union I was asked to work as an expert judge, and I considered it my duty to do so, because I was in favor of euthanasia.

Q Now, this work consisted of passing judgment on these questionnaires, is that right?

A Yes, photostatic copies of them.

DR. FROESCHMANN: Now, these questionnaires, Mr. President, are contained in the German Document Book NO. 325, Exhibit 350, in the

German Document Book 14, part 2, page 133. In the English Document Book, I shall give you the page number this afternoon.

Q Doctor, do you remember the contents of these questionnaires or shall I show you the document?

A I would appreciate it if you would give me the document.

THE PRESIDENT: Before going into this matter of the document book, the Tribunal will be in recess until 1:45 this afternoon.

(Thereupon the noon recess was taken.)

AFTERNOON SESSION

(The Tribunal reconvened at 1345 hours, 9 May 1947.)

THE MARSHAL: Persons in the Court room will please find their seats.

The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

DR. PFANNKUEHLER - Resumed

DIRECT EXAMINATION

BY DR. FROESCHMANN: (Counsel for Viktor Brack)

Q Witness, I remind you that you are still under oath.

Mr. President. I may repeat what I have failed to note this morning, namely, document 1138, Exhibit 349 is in English document volume 14, page 151, 1696 PS Exhibit 347 is to be found in English document book 14, page 209.

Witness, this morning we stopped discussing the question whether you still remembered the questionnaire which was used during the euthanasia procedure in the case of incurable mental patients. And first I should like to interpolate a question. You were an expert, as an expert, did you ever give any opinion about questionnaires which had to be filled out about the patients of your institute?

A No.

Q Why did that not happen?

A Because we received directives that we could not give such expert opinions on questionnaires which came under our own institute.

Q According to what principles did you exercise your expert opinions when expertizing these questionnaires?

A I observed the following principles when filling out the questionnaire, when filling out the left lower corner of that questionnaire. The principles were told us in Berlin during that expert conference which I have already mentioned. We were told with regard to

feeble mindedness that it was divided into three forms, the light feeble minded, the medium feeble minded and the severe idiotic form. When charging feeble mindedness, one has to take into consideration the degree of the intellect and the personality involved. In the cases of schizophrenia, the cause of the illness, the mental picture and the condition of the patient, the form of schizophrenia, and most important, we were then concerned with a condition which has to be considered when giving an expert opinion, the valuation to be attached to the degree of damage to the personality of the man involved, and when giving the prognosis of the mind. In the case of organix psychosis and in this connection I may in particular mention epilepsy and paralysis, and just to mention too one has to observe in what stage the paralysis is and what kind of treatment has preceded that stage. One has to observe whether there is a refractory therapy condition, which is a condition which can no longer be treated, a completely final condition. One has to take into consideration whether any such condition has resulted. In the case of epilepsy one has to find out whether the personality of the man involved has changed in any way, whether he is subject to attacks, et cetera. Psychosis regarding age has to be rejected. The treatment in itself and the care in an institute would have to be considered whenever giving a judgment about the case. People who were injured as a result of war should not be expertized positively especially in those cases when the damage as a result of war is not either an organic connection or any other connection with the mental condition of the patient. At a later date the question was discussed whether people who received damages as a result of work should not be expertized positively. This question was not dealt with economically according to groups, for instance house work, or paper work. In other words, it was not graded as to light work, medium work or heavy work and no mention was made about agricultural work, et cetera, but this merely was used as a diagnostic psychiatric aid in order to evaluate the ability of the patient to work within his environment. It was ex-

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pressed that this question was to be considered in a very serious way and the occupation of the patient should have to be changed very favorably. Furthermore, mention was made that the medical expert and especially the previous experts who were used would only have to deal with medical points. In no case were they to touch upon other questions contained in the questionnaire, questions concerning visits, et cetera.

Q Doctor, may I ask you to make a small pause between your individual sentences. Will you please continue?

A The Jews who were at the Institute from a medical point of view were to be considered in the same way as any other Aryan. Race should make no difference. Foreigners were not to fall under the question of giving an expert opinion. We were told that Jews, as well as foreigners, do not fall within the concept of euthanasia, as it was meant here. Also a deciding factor for the expert was the way the questionnaire was filled out. Whenever no firm decision could be arrived at, we had not the right to insert either a class major or minor at the lower left-hand corner, but we could call a case questionable, we could add that was done by either expert, at any rate, by me. These were sent on, the case history, or else a personal examination of the patient is necessary. All of these things were actually observed. There was even the possibility to insert a detailed remark on the back of the questionnaire about any matter which was left unclear, or about any investigation which still may be necessary. I think these were the broad outlines on those points which I can mention.

Q Can you still remember, witness, who issued these directives?

A These directives are the consequences of a talk among the expert physicians who participated in this conference, of experts. This was the summing-up of this entire conference. I think that I said that I don't know whether Bouhler was there, but I think that he may have been one of the people who were in the Praesidium, but it was not of psychiatrists.

Q Doctor, by inserting in your answer that statement, you answered also another question as to what category the

persons were eliminated. Can you tell me why in spite of this exception, it was set down that the questionnaire had to be filled out regarding foreigners? .

A A questionnaire, I never saw a questionnaire about foreigners.

Q What exactly do you mean? Doctor, I should like to point out to you that a so-called regulation sheet was attached to the questionnaire?

A No, I never received that.

Q There seems to be a little misunderstanding between us. You are right that under the activity of the experts, which you just described, you only know of the photostatic copy of the questionnaire, perhaps in addition to the case history. However, I am now asking you about the filling out of the questionnaire, the filling out of the questionnaire on the basis of the previous questionnaire, which had been sent to your mental Institution. You were asked to fill out the questionnaire according to the categories which were laid down in the previous sheet of which I am speaking. Do you have Document NO-825 before you? That document, you will find it in the German Document Volume 14, page 138. I shall have that Document Book handed to you. The document is NO-825, Exhibit No. 358. I already cited the page in the English Document Book No. 216, Document Book No. 14, part II. Would you please look at this sheet, I think it was on green paper?

A I never received that, never did.

Q Didn't you?

A No, I never did. I never even saw it. I would have remembered that. I am sure I would have remembered if there was something like that there on green paper. However, I never received it.

Q May I interpolate a question. When in the Fall of 1939, or the beginning of '40, you were asked to fill out questionnaires about certain patients in your institution, such a questionnaire would have to be directed to your office, is that right?

A Yes. These questionnaires were sent to me, yes.

Q I asked also, perhaps you can not remember it, that a regulation sheet was attached to that questionnaire, whether it was on green or white paper really makes no difference, and I think that in this regulation sheet a certain category of persons was set down who were to be considered when filling out the questionnaire. First, those persons who were suffering of illnesses and could therefore not be used for any work at all; secondly, such persons who for a number of years, I think five years, had been in an institution; thirdly, persons who from a legal point of view could be considered, and fourthly, foreigners. I want to ask you whether you knew for what reasons the filling out of questionnaire was necessary for foreigners inspite of the statement which you just made to the effect that foreigners did not come under euthanasia. Do you understand me?

A Yes.

Q If you don't know that, please don't make any assumption. Just say so.

A I only received those directives during the expert conference, and I can not remember having received previously any regulation sheet attached to the questionnaire, sofar as I can remember. I just received the questionnaire.

Q In other words, you can not tell us anything about that. You can not say why a questionnaire had to be filled out about these foreigners?

A. No, I can not say that.

Q. In that case I wish to conclude this chapter by putting two questions. On the basis of these questionnaires, could a reliable decision be made about the fact that the mental illness of a patient concerned was still in effect incurable?

A. It is my point of view that a questionnaire is a sufficient basis for a psychiatrist expert in order to judge whether the case should be transferred to one of the care institutions of which I have spoken about previously, or not. In addition we were told during this expert conference that an opinion by three pre-experts should be subject to a commission of top experts, and that this commission of top experts should once more investigate the case concerned in case of anything that was unclear. They should either visit the patient concerned personally, or else obtain its case history. At any rate they should do something in order to obtain clarification regarding the cases. The decision would have to be made at the end. The physician who is to accept the patient into the institute is to have another vote.

Q. What you just said is of considerable interest, especially because the Prosecution has submitted Document 3865-PS, Exhibit 365, which is to be found in the German Document Book 14, page 156, and in the English Document Book at page 230. This is a document wherein a female witness points out that a commission of physicians visited your institute, who stayed there for a number of days, and there personally examined a number of patients, after having studied the case history. Do you think that this commission of which this female witness is speaking

was probably the commission of which you were just speaking?

A I can not remember that a commission of physicians was at my Institution in the year of 1940. I assume this concerns one physician who visited my Institute. I only assume that. I think that this must be the physician who gathered all the physicians of the entire personnel, and also the ones of the personnel who were to deal with the questionnaires which were to go to Berlin. He wanted more investigating of these questionnaires in order to arrive at some decision. I think that was the case. But I don't think it was a commission.

Q Doctor, you told me that the questionnaire meant for you a sufficient basis for judging the degree of mental illness. But I would rather generalize this question, in view of what the president has told me this morning, and I would not like to limit it to your case. The psychiatrist physicians who were generally intended to be experts, could they also recommend the degree of mental illness on the basis of the questionnaire?

A So far as I know only the most experienced expert physicians were used for these expert jobs. Among them, so far as I know, there were the University Professors, the Ordinariuses, the extra-Ordinariuses, and the practical psychiatrists. I don't know the names of the experts in detail, because that was never told to me. From later reports, however, for instance, from Heidelberg, I know that only the most efficient people were selected. I know and I think that these people had the same point of view as I had. However, I am not sure about that.

Q. Doctor, in spite of your opinion that, on the basis of those questionnaires, the degree of the mental illness could be determined very clearly, do you think that errors were possible?

A. Doctor, there is a principle which says "Errare humanum est". To err is human. Even in the case of trials which are lasting for decades, trials of a purely legal nature, errors have been made and errors will continue to be made. This is exactly the same situation as in the case of an expert. These experts were used in the same way as all the experts are used during any trial and it is possible also for them to make an error once in a while, but I do think that we're here only concerned with singular cases. I don't think that any principal errors were possible.

Q. Doctor, I only have a few questions to put to you. One question may yet have to be discussed in that connection. In the course of the evidence the prosecution has raised the charge that these questionnaires were expertized by these experts in huge numbers and within an incredibly short period of time.

A. These questionnaires came to the pre-expert in a registered package and these questionnaires were to be dealt with as quickly as possible. That was desired during the expert conference, but it was also pointed out that they were to be dealt with carefully. When dealing with any such questionnaire and when considering the period of time it takes, one must bear in mind that time is really not the important factor. There are persons who are in a position to work quickly and others who work more slowly. There are people who have their desks littered with files and can never get anything done, and there are the people who sit at their desks and never leave it before their job is finished. In the case of these questionnaires, the contents of the questionnaire is the most important thing. A questionnaire can be kept in such a form that when underlining psychiatric questions with red or blue pencil one might often come to a decision within a period of one minute. One could

perhaps reach a negative decision, not necessarily a positive decision. However, there were other questionnaires, and that particularly in the case of the later questionnaires when the cases were more difficult and not as clear as before, that one could ponder about such a questionnaire for days and not get finished with it. In that case, a question mark had to be put down and the decision had to be left to other agencies. In any case, I don't want you to accept that as any defense of any personal nature, but I want to put that to you as a defense for all experts. I have dealt with these questionnaires as carefully as possible and in order to be quite sure personally I looked through a few hundreds of these questionnaires one morning, let them lie, then perhaps looked at another bunch of these files in the afternoon, and then once more looked at the first heap of these questionnaires and only then gave my opinion on them.

Q. Doctor, this brings me to the end of the most extensive point of view regarding the procedure which was adopted by the Reich Committee within the euthanasia procedure. It is now only necessary for me to put a number of small questions to you which arose from your activity and which have to be illustrated somewhat. Did you, at any time, hear that these poor mental patients, and these poor children were designated as "useless eaters"?

A. The expression "useless eaters" I heard for the first time while being here. I never heard this expression when dealing with any agencies with which I was in contact. You may believe me that if any serious minded person had heard that expression he would have thrown everything away and would have said "I am not going to cooperate."

Q. Doctor, one witness has stated in an affidavit that in the year of 1942 there was a conference in the Ministry of the Interior during which the directors of the institutes were to have

received the directive to kill these useless eaters by slow starvation. Do you know of any such conference in the Bavarian Ministry of the Interior?

A. There was a conference in the Bavarian Ministry of the Interior of all the institute directors coming from Bavaria. This conference was called by the Bavarian Ministry of the Interior. I don't know what the names of all the participants were, but, as far as I remember, the directors of all these institutes were actually present as far as they held the offices. There was the following reason for the calling of this conference. The public mental institutions, from the point of view of nourishment, were treated in a manner which is equal to certain institutions which do not correspond to mental institutions; for instance, work houses. We were subjected to whatever we were dished out in the way of rations. When, in the later years, nourishment became a problem and, in particular, the rations were reduced, difficulties began to arise within the institutions. In particular, those patients who were working within the productive program of that institution had to starve. They could no longer eat to their satisfaction and, as a result, became worse in their condition. As other directors of institutions, I attempted to increase the ration by making a number of applications at the Food Office in Munich. I tried to get a special ration of food to the same extent as was given to heavy workers. I had to visit this office for ten times and I only received rations for that personnel in my institution who were engaged in the heaviest work and only that after many, many tedious negotiations. I only received that for tubercular patients and people who had to stand on guard for as long as ten hours. The whole thing was reflected for the patients. Then, of course, I had to make a complaint to the district office and I also turned to the Ministry of the Interior in Bavaria. At a later date I

learned during that conference that the same thing had happened in the case of other directors of institutions without being able to come to any understanding. However, nothing was given to us. Some adjustment had to be made with the rations which we received at the institute and it was then determined that the patients had to be treated in a different way who were at a much lower social level for the benefit of the other patients, and I think I want to point out something else- I would not have been in a position to maintain one of my insulin departments if I hadn't received enough nourishment.

Q. Doctor, if I understand you correctly, this dealt with the giving of nourishment to these institutions by the Food Office which had nothing to do at all with euthanasia. Now, another question- among the mental patients who were transferred to an euthanasia station from your institution, were there any such people who could be considered as valuable workers?

A. Gentlemen, I filled out the questionnaires of my institution by having every one of my patients presented to me personally. This was done by the head nurse of that particular department. That was done in the presence of the head nurse and in the presence of the physician of the department, who had previously filled out the questionnaire. Also in the presence of the ordinary nurse or the person who was controlling the work of that patient. I looked at the case histories. I don't really know what other safeguards I could have taken.

Q. At any rate, you say "no" to the question that any valuable workers were transferred to the euthanasia program?

A. No, that is out of the question.

Q. Did you ever gain knowledge that patients were transferred from mental institutions for euthanasia?

A. Now, Doctor, I think I forgot something from before. I sent back patients and I didn't send them on to the transport in cases where I didn't think they should be transferred to the transfer institutions.

Q. Now, I shall once more repeat the question. Did you ever gain knowledge that patients were transferred from mental institutions into euthanasia stations in order to create sufficient space for wounded personnel?

A. I didn't know that it was possible, however, that I cannot remember this, during the conference in Berlin, Dr. Baurer's conference, a release of space was discussed in the furnishing of that space for Army purposes. At any rate it was particularly discussed that this space was to be vacated for purposes of housing, but not within the framework of euthanasia, euthanasia was not at all discussed.

Q. I have one more question to you; to whom were the euthanasia stations subordinated from an official point of view?

A. From an official point of view they were subordinated to the Ministry of the Interior medically, from the economic point of view they were subordinated to the Reichsarzt President, that is the district president, who had a certain expert for that department. He was a legal man who was attached for that department.

Q. Doctor, was there a National Socialist Nurses Corps?

A. I never heard of anything like that in my life.

DR. FROESCHMANN: I should like to point out that the Prosecution has submitted Document 3532PS, Exhibit 371, Document Book 14, page 183 of the German edition, and in

the English edition page 262. This is the affidavit of Jordans, wherein it is stated these injections in the case of children were introduced by physicians and nurses of the so-called National-Socialist Nurses Corps.

THE WITNESS: Gentlemen, that is madness. That is complete madness. We had nurses who came from a free nursing association. We had male personnel and female personnel nurses, and I know of no other nurses. I never heard of the National Socialist Nurses Association. I would have known it if such a thing had existed.

Q. Now, the one last question, Doctor. Do you know that euthanasia had been carried out because of defensive and political reasons?

A. No, during my interrogation by the American gentlemen I have been asked about that question, but I don't know anything about that.

DR. FROESCHMANN: Mr. President, in that connection I refer to another document which has been submitted by the Prosecution, Document No. 3896, Exhibit 372, in volume 14, page 184 in the German edition, and page 263 of the English document book, which deals with the affidavit of Dr. Sprauer, where he says that mention was made during the conference in Berlin that euthanasia was necessary for defensive and political reasons.

Q. Now, I have one other question. Did you gain knowledge that euthanasia was to be extended to elderly people?

A. No, on the contrary.

DR. FROESCHMANN: Mr. President, in this connection I refer you to Document 818, Exhibit 373, Document Book German 14, page 187, and the English Document Book page 365. This is an affidavit by the just mentioned Dr. Sprauer.

Q. Now, one last question. When discussing the exceptions you were saying that people who were injured as a result of the war were to be excepted, perhaps you didn't express yourself quite properly. I am putting to you that in a document, which I don't find, submitted by the Prosecution, there was a list of a number of death cases where death notices were contained, and I think that three or four participants in the World War, 1914 to 1918, were also mentioned there. Doctor, it is my question now, is it correct that only those participants in the World War were to be excepted where the mental illness was in connection with a wound which was inflicted during the war, or and that I can hardly assume, that all participants in the World War were to be excepted who became mentally ill as a result of their injury?

A. Well, I can't tell you that. I can only tell you that in the case of those people who suffered injuries as a result of the war, and in which case there was a connection between that injury and their mental condition had to be considered in a negative way. As for the others, I cannot tell you how they are judged. I think it says here "military conscription from the year of 1914-1918" and then we inserted either "yes" or "no". The expert opinion does not depend on that at all. All the medical psychiatric questions of the transfer which really had nothing to do with the expert. Now, something else, gentlemen, I think I can remember that this was outlined in the file. Whenever participants in the World War were mentioned you must consider that it is quite possible that we didn't know from the case history whether the person concerned actually was a participant in the War or not, because that was not laid down. It is quite possible that

a "no" was inserted at first, because one only set it down according to the administrative files on that person, and one doesn't at all find out whether the man was in the war. If on the other hand he had a very visible injury, as a result of the war, supposing one of his arms was missing or one of his fingers was missing, or supposing a severe physical condition has resulted because of the war, as tuberculosis, I can assure you that these people were not considered positive.

DR. FROESCHMANN: Mr. President, I have no further questions to the witness.

JUDGE SEBRING: Witness, the Tribunal has one or two questions it would like to ask.

BY JUDGE SEBRING:

Q. As I recollect your testimony you said that at the meeting of the Reich Committee in Berlin where the euthanasia problem was considered it was there determined that Jews were not to be included in the euthanasia program; did I understand you correctly?

A. I am afraid I wasn't in a position to follow your question exactly.

Q. State whether or not Jews were to be included in the euthanasia program?

A. I didn't know that Jews were to be included. I never heard of that.

Q. Then you don't know whether they were to be included or excluded?

A. That I really don't know. The cases in my institutions were treated equally. I made no difference at all.

Q. Then so far as you know in exportizing these various cases a person would be exportized and a decision made from

a psychiatric and mental point of view with at the slightest consideration being made to whether he was a Jew or non-Jew, is that correct?

A. Well, I never made any difference when dealing with these cases, but none of them were transferred.

Q. None of whom?

A. None of the Jews, none of the Jews were transferred. None of the Jews were sent to the euthanasia transport as far as I know.

Q. Why?

A. As I already said initially, the Jews were sent to a Jewish Institute through a collective transport on the basis of an order by the Bavarian Ministry of the Interior.

Q. And do you know whether or not at that Jewish Institution selections were made for mercy deaths?

A. No, I don't know that. I had nothing to do with that.

DR. FROESCHMANN: Mr. President, may I state that the witness is somewhat deaf, and that is why I ask that the interpreter speak a little louder when speaking in German to the witness.

THE PRESIDENT: Has defense counsel any further questions to this witness? There being none the Prosecution may cross examine.

CROSS EXAMINATION

BY MR. HARDY:

Q. Dr. Pannmueller, have you been interrogated by Mr. Rodell?

A. Yes, I only learned his name a little later.

Q. And you have been interrogated by Dr. Hochwald, the Czecho-Slovakian attorney working for the Prosecution here in Nurnberg?

A. Yes, there was another gentleman there. I don't know whether that was Mr. Hochwald or not. I later learned a certain Mr. Hochwald was there.

Q. Have you been interrogated by the Prosecutor of the German Court in Frankfurt?

A. Yes, I was interrogated by a number of investigating judges, three or four of them.

Q. When you were interrogated by Mr. Rodell and Mr. Hochwald were you under oath?

A. Yes.

Q. Were you under oath when you were interrogated by the German Prosecutor?

A. No.

Q. Then you realize, of course, you are under oath here?

A. Yes, certainly.

Q. Will you kindly tell the Tribunal in your opinion why the euthanasia program was instituted in Germany?

A. I don't know that. I am not informed about that and I, therefore, cannot tell you that. Only at a later date I had occasion to see the Reichsleiter Bouhler, where he showed me a letter, according to which a decree had been issued by the Fuehrer which constituted the basis for the execution of the euthanasia program. Bouhler showed me that personally upon my request. I don't know whether at that time I already knew about euthanasia or whether the question was just pending then. At any rate I assumed that euthanasia may come into question.

Q. Did Buhler show you a letter from the Fuehrer?

A. Yes, I thought that this was the original. I saw the photostatic copy in Frankfurt. I can no longer remember that exactly but I do know that in the letter which Buhler showed to me --

Q. We have the letter. I just merely want to ask you a few questions about it. Can you tell us the date on the letter, was it 1 September 1939?

A. I didn't write any letter.

Q. I am asking you about the Fuehrer letter that Buhler exhibited to you?

A. Oh, the Fuehrer decree, yes. Would you please repeat your question?

Q. What was the date on the letter?

A. I no longer know that. I think in Frankfurt I saw that it was 1 September 1939, that is, the photostatic copy which was shown to me in Frankfurt. That was the first of September 1939. May I add that I already stated in Frankfurt that I can no longer say with certainty whether that was the document. I had always thought that on the left lower corner there was a remark: "Reich Ministry of the Interior" or something like that. At any rate I can't remember that document exactly. I also believe on the document shown to me there was "Reichsleiter Buhler and Brandt."

Q. We have the document. You don't need to explain the document. I merely asked you the date. Now you pay attention and answer the questions I am asking you. Now Doctor, in the course of your direct examination here did you have notes written out. Do you have notes there before you?

A. Here, no.

Q. You don't have any papers there with notes written thereon. You were reading from a paper this morning. Do you have notes written on the paper, any pencil notes or notes supplied to you by defense counsel? What do you have there before you?

A. Before me I have excerpts from the document books. Yes, I made some notes on the pages of those documents.

Q. Now, doctor, you noted on the photostatic copy of the Fuehrer letter the date 1 September 1939, do you recall the date that the Germans invaded Poland?

A. No, I don't know that.

Q. Wasn't that 1 September 1939?

A. Well that may be but I don't know that exactly. I wasn't active militarily with the exception of having been conscripted to the home guard at the end, but otherwise I wasn't in any military service. The war started on the 1st of September, 1939. I do know that.

Q. You have answered my question. Now do you recall in your interrogation of 21 September 1946 when asked the same question that I asked you here today as to what was your opinion as to why the euthanasia program was instituted and at that time you said that you thought it was a military measure for hospital purposes. Do you recall answering that in your interrogation in September?

A. No.

Q. Remember you are under oath here, doctor.

A. I don't remember details any more. I may say one thing. I was interrogated so rapidly at that time that I hardly had any possibility to think, and one more thing - it is possible that I said that hospital measures were taken into consideration for the purpose of the army. I still say today it is possible that wounded people were discussed but I can no longer remember exactly. I don't want to say anything which is untrue.

Q. Well now when did you receive your invitation from Bouhler to participate in the euthanasia program?

A. Well, I just mentioned that there was no talk of euthanasia when I was with Bouhler. At that time I had not yet seen the decree. During the Bouhler conference there was only talk about transfer into the county care institutions. As far as I know this was a measure to separate cases for care and cases for treatment.

Q. Well now when did you receive your invitation from Bouhler?
What date in the summer of 1940?

A. I repeatedly stated that I can no longer remember the dates.

Q. You remember, witness -- You remembered it very well in
Frankfurt.

A. I repeatedly said in Frankfurt that I cannot remember the
dates which were mentioned. I don't know whether it was in the spring
of 1940 or in the fall of 1939. I really can't remember that and I
repeatedly said so.

Q. Well now, doctor, we fortunately have records of your
previous interrogations. Now, doctor, during the course of your
examination in Frankfurt you stated that when you went to the Fuehrer
Chancellory in the summer of 1940 that Bouhler gave you as a reason
for the execution of the euthanasia program that it was necessary to
get more space for the purpose of the armed forces, and in addition to
that you stated that it was also a program wherein you would get rid of
inmates who were not fit for work. Now don't you recall telling that in
an examination in Frankfurt?

A. In Frankfurt? I am sure I didn't say it there. I really
don't remember it.

Q. You don't remember that you stated that one of the insane
asylums, the name was Gabersee, spelled G-a-b-e-r-s-e-e, was handed
over to the euthanasia program?

A. I beg your pardon. Gabersee was the sister institution of
mine, located in upper Bavaria. Gabersee was then vacated. I already
said in Frankfurt I no longer know to which of these institutions but
a number of patients were sent to my institute from Gabersee and I already
stated in Frankfurt so far as I remember that patients had already been
sent away a little while after they had come. I did not participate in
the vacation of Gabersee. I said that in Frankfurt the vacation of
the Gabersee institution was carried out without my assistance.
On the contrary --

Q. I didn't ask you that, doctor. I asked you whether or not you stated that in connection with the euthanasia program at Gaborsee -

A. Yes.

Q. Kindly answer my questions, doctor, and wait until I complete my questions before you start answering. My questions will be brief and your answers like wise may be brief.

Now who took charge of the insane asylum Gaborsee at that time?

A The Mental Institution at Gaberssee was taken over by the DAF, the German Labor Front, so far as I know.

Q That is the German Labor Front, isn't it? The DAF?

A Yes.

Q Thank you.

A Yes. Without my presence, of course.

Q Now, when you entered the euthanasia program, did you take an oath?

A Well, I think that at any rate I was obliged to keep matters a secret. I think that that happened in Berlin at one time. At any rate, during the first conference it was said at the end that the entire conference fell within the designation, Secret Reich Matters, Top Secret.

Q I ask you again, did you take an oath?

A No, I was told that I was to say nothing about these negotiations, and that under the circumstances, a death sentence would be carried out.

Q Who told you that?

A -- if that was violated.

Q Who told you that?

A I don't know exactly who told me that. At any rate I can not remember it. At any rate I was obliged to keep the secret in a sense.

Q At the time the individual told you that, did he also shake hands with you to indicate by his handshake that it was agreed that you were admitted?

A Yes.

Q And who was it?

A That was not a ceremony, there was no ceremony with that. If it were otherwise I would have remembered that instance, but really it was an obligation in the sense of secrecy, and in the sense of my task which was given to me in the Reich Ministry of the Interior, in

my capacity as an expert.

Q Doctor, who else did that. Did someone else ask you to keep these matters a secret?

A I beg your pardon.

Q You had testified in a previous interrogation that the entire group of individuals took this oath who directed the work of euthanasia program, and that the oath was taken in the form of a handshake, and you said you must keep this a secret, and now I want to tell this Tribunal who that was, just what was said, and all the incidental conversations that accompanied it. You know just what I am referring to, I believe?

A I no longer know. When this Reich Committee was created, I was obliged to secrecy anyway, and I can no longer state that in exactitude who the agency was, that obliged me thus.

Q When were you interrogated? When were you interrogated by the prosecution in Frankfurt, the German prosecution?

A I have not got the date here. I think it was in January or February.

Q It is not five years ago?

A It can be in April.

Q It is not five years ago, Doctor. It is a matter of months?

A Yes, but at the time also in Frankfurt I stated that I no longer know who that was. I don't know whether it was Munich Ministry of the Interior, or whether it was in Berlin. I really don't know that exactly.

Q Who conducted the meeting in Munich of the Ministry of the Interior?

A The meeting at the Ministry of the Interior was headed by Ministerial Director Schulze.

Q That is right?

A That is right.

Q You don't recall telling any one within the past few months

that it was Victor Brack who shook hands with you when he swore you to secrecy?

A I certainly was not sworn in in any way. There was no swearing, and I really would have remembered it had such a thing taken place. I was only obliged to keep the matter a top secret, but it is possible Victor Brack would have to know that himself. I no longer know that. I would not exclude the possibility.

Q Did you ever have such a meeting with Victor Brack wherein you shook hands with him at the time, considering the secrecy of the euthanasia program?

A Well, however, we are coming back to the same thing again. I no longer know of these things, and I can not state them exactly. These things are so many years back, gentlemen, that I can not no longer recall all these details; all these dates are mixed up in my mind, and I could only reconstruct them truly on the basis of the document.

Q Then I shall try to help you, doctor. I will not ask you to go back three or four or five years. I will ask you to recall your interrogation of the past few months. Do you recall telling just that to an interrogator, either to my staff, or the staff of the General Prosecutor in Frankfurt, that is not very difficult to remember, two or three months back?

A What do you want me to remember. I don't quite know what you want.

Q One of these interrogators had asked you if Victor Brack shook hands with you and told you the things must be kept a secret concerning the euthanasia program. Did you or did you not tell the interrogator that in Frankfurt, yes or no?

A I really don't know that any more. I did not receive any copy of my interrogation, therefore, I can not tell you that.

Q You have stated that they had a conference in Berlin in the summer of 1940, who attended that conference?

A Well, I don't know what conference you are talking about. Would that be the expert conference? Was it the expert conference?

Q How many conferences did you have in the summer of 1940?

A I no longer know that. Sometimes I took the questionnaires up there, and delivered them to some agency, and then briefly spoke to these people. I only had two conferences in Berlin, so far as I remember. One of these conferences was the first conference to which I was invited by Bouhler, and the second conference was the expert conference in Berlin, about which we have been speaking today, wherein we received all our principles.

Q Now let's take the first conference. You were invited to the first conference by Bouhler. Was that the first time you had heard about the institution of euthanasia program of the German Reich?

A That was the first time I was over in Berlin. I had never been to Berlin before that, and I had nothing to do with it before that.

Q Doctor, you will answer the questions briefly. Now you could have answered the last question, yes or no. Now, kindly try to do that, and we will proceed much more rapidly. Then this was the first time you ever heard of the euthanasia program when you were invited to a meeting or conference in Berlin in the Summer of 1940. That is the first conference you attended where Bouhler invited you. Now as Bouhler present?

A Yes. Yes, Bouhler was there.

Q And who else was there?

A So far as I can remember, Conti was present, Linden was present, Professor Heide was there, and Hetze. I think Dr. Brandt was there.

Q Yes.

A Brandt and Brack, and I think I can still remember these.

Q Now you say Dr. Brandt was there. Was that Dr. Karl Brandt?

A Yes, sir.

Q Was Professor Nietzsche there?

A So far as I can remember, Doctor Karl Brandt was there.

Q Was Professor Nietzsche there?

A I don't believe so.

Q Was Warburg there?

A Warburg? I don't know him.

Q Was Hevelmann there? Do you know that man?

A Heffernann?

Q Hevelmann, yes?

A I can not remember Hevelmann. I can not remember he was present during the conference.

Q Was Blankenburg there?

A Blankenburg? Yes. I made his acquaintance later, but I can not remember whether he was there.

Q Was Dr. Schuhmann there?

A No.

Q Was Dr. Falkhauser there?

A No.

Q Was Professor Brack there?

A I beg your pardon.

Q Was Professor Brack there?

A Brunck?

Q Victor Brack?

A Victor Brack, yes, I believe he was there?

Q You say at that meeting a letter from the Fuehrer charged Dr. Karl Brandt and Reichsleiter Bouhler with the authority to give permission to other men to conduct the euthanasia program was exhibited to you for the first time?

A No, I never said that. No letter was shown to me during that conference. This so-called decree of which I saw a photostatic copy was shown to me by Bouhler much, much later when he was at this

very institution. He did that upon my request. I wanted to know whether there was to be a transfer of patients, which had something to do with this question.

Q That is correct, that this outline of the letter of the Fuehrer was not exhibited, is that correct?

A No. I did not know anything about the euthanasia program.

Q What was the purpose of the meeting?

A The transfer of patients who were to be treated and to be separated to other institutions, and, persons who were to be taken care of, to be sent to other institutions, the separation of these two cases of patients.

Q All right.

A That is how I understood it.

Q Then when was the first time that the inmates were to be exterminated?

A I never heard anything about extermination. Pardon me if I say so, but I didn't know the expression "exterminated". I no longer know exactly when the thought arose that this was to be an euthanasia measure. I think it must have happened when I visited Berlin or perhaps when I was in Munich. I no longer know that. I repeatedly said so.

I can't tell you that now. At any rate, at the beginning of the action I was fully conscious that these people were to be sent to welfare institutions, probably for the purpose of euthanasia, but when exactly euthanasia was to start I did not know.

Q May I ask you one question, Doctor, along these lines? Was there ever any one, to your knowledge, killed under the euthanasia program. That is, accorded a mercy death, or helped along so that they could die without any further suffering. To your knowledge, do you know that?

A No, I heard about that for the first time in Frankfurt. One of the interrogators told me in Frankfurt that the action had continued after it was supposed to be stopped. I didn't know anything about that.

Q Then you knew about the commencement of that action? When did this begin so far as you know?

A Well, I don't know that either. I don't know when the action started. I never said that I did know it. I don't know it. I was never asked to participate in any discussions regarding that.

Q How many children did you accord a mercy death in your asylum?

A I can't tell you that either exactly because I no longer know the number.

Q You applied....

A (Interrupting) No, on the basis of the authorization I had these children fall asleep.

Q What do you call that?

A The children received luminal. In the case of these children a very little dose was sufficient in order to relieve the suffering of these pitiful little beings.

Q How many children did you do that too? Two, three, two hundred, five hundred, one thousand, or eighty thousand?

A For God's sake! I really don't know how many there were. I don't know whether there were a hundred cases or over a hundred cases. The cases who were purely put into a slumber must number around one hundred twenty. However, I can't tell you that with certainty. I am under oath here, you know.

Q I realize that, Doctor. Do you know when the last child was accorded a mercy death in your institution?

A No, I don't know that exactly but Dr. Rodell - I think, Dr. Wendell - said that in Frankfurt that shortly before the Americans arrived children were still treated with euthanasia. He mentioned one child - but I am not quite sure. At that time I was very excited as a result of these questions.

Q Well, how long did you carry out euthanasia of children in your institution? From 1940 to what date?

A In 1939 I had no euthanasia, I am quite sure that is wrong. I am quite certain it is wrong. I already mentioned a document today.....

Q (Interrupting) I didn't mention the date of 1939 to my knowledge. I said 1940. Maybe we got an incorrect translation. 1940 I said.

A I think you said 1939.

Q Well now, tell me, from 1940 on you were

A (Interrupting) Do you want to know when it started?

Q I want to know when it started, yes.

A Well, I really can't tell you that exactly. I said the same thing in Frankfurt. You can't expect from me that I remember all these single dates after so many years have passed. With the best of my will I can not tell you that. This is the question again and again.

Q When did it stop?

A What stopped? What do you mean?

Q The killing of these children.

A The killing of these children? The killing of these children was never stopped.

Q The recording of a mercy death to these children.

A The authorization was never stopped, not until the very end. I never received any such stopping. The action regarding the grownups was stopped, and after that, grown-up people were no longer subjected to euthanasia in my institution and were no longer transferred. There must be some mixup here.

Q How many grownups were accorded a mercy death in your institution?

A Well, these are the very same questions which have been put here before. Also in Frankfurt. I can no longer...

Q (Interrupting) Just a moment, Doctor. Just a moment. I will ask the questions and you answer them. If you do not choose to answer the question will you kindly say "I refuse to answer the question." Either answer the question or don't answer the question. I don't want to hear any more quibbling from you.

Now, let's continue. How many grownups - that is, adults - did you accord a mercy death in your institution?

.. The mercy death, in my institution - I didn't grant that to any adult. I just transferred the patients.

. Well now, this first conference in Berlin - the first one, the one that Bouhler invited you to - that concerned the transfer of inmates from one institution to another? Was that its purpose?

.. The purpose of that conference was the transfer of patients, who could no longer be treated, into care institutions. These were county care institutions, and that was the expression I heard there for the first time.

. Then what happened immediately after that conference? Did you then go back to your institution and start to transfer the inmates affected, or then did you wait a while and have another meeting in Berlin, or did you have to attend another conference before the program got underway, or just what did happen?

.. I returned to Munich.

. You returned to Munich. Now did you then immediately start to transfer inmates?

.. No, I transferred the patients as soon as the first transport was demanded from me. That is quite impossible what you are saying.

. When was the first transport... I'm not saying anything. I'm questioning you. Now, let's not have this hostile attitude.

.. I beg your pardon. It hurts me because these are matters which I do not understand. It excites me.

. Well, all right now, after your meeting in the summer of 1940, you returned to your institution. Now, when did you receive the first order to send patients away from your institution?

.. As far as I remember, I received that order during the

same year, and I think that was probably in the late fall of 1940.

Q Now, in the same summer, that is, the summer of 1940, did you attend another meeting or conference in Berlin.

A Yes, the expert conference. I already said that.

Q Now, will you tell me about the expert conference? Was Brack there?

A I believe he was there, yes.

Q Was Bouhler there?

A I don't know that any more. It may be that he looked in, but I really don't know that exactly.

Q Well, just about two hours ago, on direct examination, you stated that at this conference of experts in Berlin, Brack was there but Bouhler was not. Is that what you said then?

A I said that I believed that Bouhler was not there, but I can't remember these personalities now. I don't believe Bouhler was there. However, I can't exclude the possibility, if you are speaking of possibilities, I can hardly say "no".

Q Was Brack introduced to the members of this conference?

A I don't know. I can't tell you that. I don't know that.

Q Who presided over the conference?

A As far as I remember, the conference was presided over by Mr. Brack. As far as I remember, Professor Nietzsche spoke from the physicians. I also spoke. All the other physicians spoke. This was a general discussion.

Q This is a good breaking point, Your Honor.

THE PRESIDENT: At this point the Tribunal will be in recess until 9:30 o'clock Monday morning.

(... recess was taken until 0930 hours, 12 May 1948)

Official Transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany on 12 May 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are all present in court.

THE MARSHAL: May it please Your Honor, all the defendants are present in court.

THE PRESIDENT: The Secretary-General will note for the record the presence of all the defendants in court.

Counsel may proceed.

HERMANN PFANNMUELLER - Resumed

CROSS EXAMINATION (Continued)

BY MR. HARDY:

Q Dr. Pfannmueller, at the close of the session on Friday we were discussing the organization of the euthanasia program and I am interested in having you explain to the Tribunal in more detail the activities and events of the various conferences in the summer of 1940. I want to go back now, for the moment, to the first conference wherein you were invited by Bouhler to attend the conference, that is the first conference in the summer of 1940. Do you understand me?

Now, this first conference, after you arrived and the assembly was called to order, who was the presiding officer at the conference?

Reichsleiter Bouhler.

Now, what was the subject of the conference?

Q The discussion was about dealing with incurably insane persons in institutions and their transferring to care institutions. I never had any other idea of the purpose of this meeting.

Q Now, after the incurably ill patients were transferred to care institutions was it decided at this conference what would be the final disposition of those particular patients?

A At this meeting nothing was said about that. The word euthanasia was not mentioned at all. It was never mentioned.

Q I see. Now, did Bouhler refer to any state order that this transfer must take place?

A No.

Q Then the discussion merely included the transfer of incurables from various institutions, such as your own, to these so-called care institutions, is that correct?

A Yes, in my opinion. That is the impression I had.

Q I see. You have attempted, for the benefit of the Tribunal, to recollect those in attendance at that meeting. I am fully aware of the fact that this meeting took place 7 years ago and it is with considerable difficulty that you are attempting to recollect those present. Could you tell us how many were there, that is, were there 20 people there, or thirty people, or fifty people? Do you recall that, doctor?

A I believe there were not over twenty, rather, less. I can't say exactly.

Q Did anyone else other than Bouhler participate and have anything to say at the meeting?

A Yes.

Q Who was that, do you remember?

A Yes, I believe I can remember that there was Brack. I believe I can remember Professor Hayde, I can't remember with absolute certainty but I believe he was there. I

believe I can remember Professor Heinze, I think, but I don't know for sure, that Linden was there from the Reichs Ministry of the Interior. And I think that Conti was there too, but I can't remember those two definitely. There were other people there too. The introduction was as it usually is, I don't understand names and you just smile. But I think I can remember that during the discussion the question of incurability was discussed and I believe that Professor Heinze spoke, and I said something, and I think Professor Heyde made a remark too. That is what I remembered about this conference and what I think I can swear to.

Q I see, did Blankenburg participate? Did he have anything to say?

A Blankenburg - I don't know. I don't know. There was a small man whom I met later but I don't remember on what occasion. I don't believe that he was at that meeting but I can't say for certain.

Q How about Professor Nietsche?

A I do not believe so. I think I met Professor Nietsche for the first time at the second experts meeting.

Q How about Professor Dr. Karl Brandt?

A I believe so, I think so, but I can't say for certain but I think he was there. I didn't know that he was a professor.

Q I see. Was Professor Doctor Kurt Blome there?

A I don't know, I never talked to Blome. I don't know him. I don't know Blome.

Q Well, now, Doctor, as best as you can recollect, what was the final outcome of this particular meeting, this first meeting? Was anything absolutely decided? Just what were the final results?

A No, the final result of the meeting, as far as I can remember, was that the certain patients who were considered

incurable and in need of permanent institutional care might have to be put in separate institutions. I don't know whether the name Reich Working Union was mentioned at the time, but the main point of the meeting was that the people were to be transferred to these institutions. It was said that beds were to be released for curable cases, for curable cases which required treatment in these institutions. And during the course of these many examinations I have been thinking this over. I think it was also said that beds were also to be released for wounded, I believe, but in any case I remember only that beds were to be released for curable cases, that is, the institutions were to be exclusively institutions for curing curable cases. One of the oldest followers of practical psychiatry I was in favor of separating the curable and incurable cases and I know the suggestion very thoroughly. And I may add something that has since occurred to me. I was afraid at the time that my institution might be dissolved if I accepted many permanent cases. I think that I expressed these misgivings but after this long lapse of time you can't think ill of me if I don't remember all these details.

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Q Now, was there anything further you recall about that meeting that you would like to tell us about?

A No, I can not remember anything else.

Q Well now--

A (Continuing) nothing else was said. I had no idea as to why that conference was called. The invitation did not say.

Q Now, Dr. Phannmueller, after a completion of this conference, you then, I suppose, returned to your Institute, and when did you here--

A Yes.

Q When did you hear again about this subject?

A Spfar as I can recollect, I received the questionnaires. It had been said that the head of the Institute would receive questionnaires: in connection with registering the patients; I believe that was the first meeting, but I received the questionnaires, and had to fill them out, and I did fill them out about the so-called permanent cases.

Q Those were questionnaires - - -

A And then I believe I was told, I don't know by whom, if it was one of the men at this meeting I can not say whether Brack - - it was not Bouhler, but I don't know whether it was Brack, or whether it was Hefermann, who might have been there, I don't know any longer, but I remember the name from later, I was told I was to take care of these questionnaires as quickly as possible, to examine the cases quickly, and to take the questionnaires up to Berlin, because they wanted to discuss with me what mental institutions there were in Germany. Apparently, no preliminary work had been done in Berlin, and I took the two volumes works on Mental Institutions in Germany, I don't remember the year when it was published, I don't have these things with me, I took that along to be able to tell the gentlemen something about the size and number of beds, and so forth, of the various institutions.

Q Now when you received this questionnaire, did you have filled out those which were to be filled out with only the patients in your hospital, is that correct?

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A Yes, yes ,of course.

Q After you had completed filling out these questionnaires on the patients in your hospital, then you had to send the questionnaires to Berlin, or, did you have to carry them to Berlin personally? Do you recall that?

A I believe twice I took questionnaires to Berlin personally by request. It took a long time because I worked there carefully-I testified so in Frankfurt-I believe the rest of them were sent by registered mail to the Reich Working Union.

Q Well, now, Dr. Pfannmueller - - -

A I don't remember the address but I think it was in the Columbus House. I don't remember.

Q Now, Dr. Pfannmueller, after this episode of receiving questionnaires to be filled out on the patients in your hospital, then there was another meeting held, that is, a meeting of the experts in the Summer of 1940. Can you tell us just what was the reason for the calling of this meeting of experts, as you understand it to be and what developed at the meeting, and what was the outcome of the meeting?

A So far as I can recall, I shall testify, of course, about it. That conference was called, I believe, when I got a written invitation. It might be that I was asked by telephone to come, I don't know exactly. I think I got a written invitation. We met in the ante-room. At the end of the corridor was Buhler's office, and then we were taken over to a small conference room. I don't remember how many people were there, but I think that there were about twenty. So far as I can recall the conference was opened, or presided over, I don't remember exactly, by a Mr. Linden, or was it Dr. Brack, or was it somebody else, I can not remember exactly. Of the people attended, this conference, I think I can remember Brack. During the discussion I believe I can remember Professor Heinze, Professor Nietzsche, whom I got to know better at that time. I had known him before as a member of the board of the Society of German Psychiatrists and Neurologists. Then there were people from

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Nassau Institutes. I can remember one of them, because I worked from thirteen to sixteen in an Institution in Nassau, that was Dr. Schneider- I beg you pardon, perhaps you can help me. I remember somebody else, Henkel, a physician or somebody like that, but- - -

Q Let's see- -

Q Who must also have been a Nassau Director,

Q I can go through a few for you and see if I can refresh your recollection to help you.

A Please.

Q Was Bouhler there?

A I said that Frankly that I can not remember for sure. It may be he was there for a while, but he did not preside at this meeting, otherwise, I would have remembered it.

Q You say Victor Brack was there?

A Yes, he spoke too, so far as I can remember.

Q Was Blankenburg there?

A Blankenburg was never in such a close contact with me, I would be able to remember. I talked to Blankenburg and I can remember that he was a short man, physically small man, but I really don't know whether he was present or not. Not with certainty anyway.

Q Was von Hagenor there?

A I don't know.

Q Was Vorwerk there?

A Vorwerk?

Q Yes.

A Vorwerk, I believe Vorwerk was present, but I don't know for certain. I believe that he was there at the end, but I don't know for sure, gentlemen. I believe that a few words were said about the transport of the patients, and that might have been Vorwerk. It was discussed they should be removed in buses. I don't know for certain.

Q Was Professor "Cyde there?

A I think Professor "Cyde was there, yes.

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Q What about Professor Nietsche, he was there?

A Yes, he took a very active part in the conference, in the discussion about the diagnostic and prognostic judgments of the institutional cases.

Q Was Dr. Linden there?

A Yes, I believe Linden was there.

Q Was Dr. Conti there?

A I don't think so. I don't believe that Conti was present. I can not remember having seen Conti.

Q Dr. Blome was there?

A I don't know Blome. I don't know who Blome is either.

Q Is the name of Allers familiar to you. Was Allers there?

A Allers?

Q Yes.

A No, no Ahlers. He was my superior in Augsburg.

THE INTERPRETER: Allers, Allers, Allers?

A Allers, no.

BY R. HARDY:

Q Was Dr. Schumann there?

A I thought that over for a long time. I don't know for sure. I don't remember whether it was Wahlmann or Schumann. I can't tell.

Q Was Professor Dr. Brandt there?

A No, I believe that he was not there. I don't remember about that very well. I only have a faint recollection of him. I saw him again here during the walks. He will be able to confirm that. In my opinion I saw Professor Brandt only at this first Bouhler meeting. I cannot remember if he was at the second conference.

Q Was Dr. Falkenhauser there?

A Falkenhauser?

Q Yes?

A No, that was a very good friend of mine, my paternal friend, and my teacher. He was not there. He was not present at this conference.

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Q Was Dr. "onnecke there?

A I believe that you misunderstood me, probably that was Menneke.

Q Menneke?

A Yes, Menneke.

Q Yes, Menneke?

A I don't remember, I can not remember Menneke. I know Menneke only from later scientific meeting, a small convention in Weidleberg at the Psychiatric clinic, of Professor Schneider.

Q Can you tell us now Dr. Pfannmueller what developed?

A Excuse me for interrupting you. There were other doctors present, but I did not know them.

Q Yes, can you tell us what developed at this meeting of experts. What was the purpose of the meeting, as you understood it; what was the final outcome? Can you kindly tell the Tribunal just what developed at this meeting?

A The results of the meeting was more or less what I have testified to here I was examined by Dr. Froeschmann, in my capacity of an expert. That is, in the discussion of the doctor, the medical conclusions were reached about the evaluation of the permanent cases, which were to be transferred to other institutions, and about details of the diagnosis and prognosis of cases, and in their registration; about the use of the questionnaire by doctors with scientific and practical experiences and knowledge, as experts, and to deliver that questionnaire. I believe I can remember that a questionnaire of this type such as was shown to me here was exhibited, and the technique was discussed of marking positive cases with a plus mark, and the negative cases with a minus; and the doubtful cases with a question mark.

Then I believe I can remember it was said that it was possible for the experts, if they were appointed, to make personal remarks, something about the case history of personal examinations and remarks at filling out of the questionnaires, that they were not filled out carefully. Finally, as far as I can remember, gentlemen, it was also discussed how the whole activity was organized, the preliminary expert, the chief expert, how the Government agency came in the Reichs Working union, the administrative elements and the final decision by the man in charge of the institution. Gentlemen, I cannot say with certainty whether it became obvious at this point that Euthanasia was a program. I don't remember, but I believe it was only later that I heard about Euthanasia, that is near to the time when Bouhler appeared at my institution. I cannot say with certainty, but I do not want to deny the possibility that it was said due to the treatment of the patients it might lead to their dying. I cannot say with certainty, but I believe that is all I can tell you from my own memory about this conference as far as I can remember after all these years.

I forgot one thing, gentlemen, to give you a true picture, in both conferences it was said that the discussions were top secret and that criminal proceedings would be started if anyone would declare anything about this. He might be tried and it might involve the death penalty. I don't remember when I was obligated to secrecy and in what way, whether by solemnly shaking hands or at the end of the meeting when we were walking out. I cannot tell you that, but later my personnel was obligated to keep these things a top secret.

Q. Dr. Pfannenmuller, after the completion of this meeting when did you for the first time, as far as you can recall, hear that Euthanasia was to be applied in the case of these incurables, after they had been first recorded in the questionnaire by the chief doctor of the institute when they were hospitalized; when did you first hear that the final disposition would be to record these patients a mercy death? Do you understand the import of the question, doctor?

A. Yes, I know what you mean, but I was not able to formulate all of your statement.

Q. When was the first time that you heard or were informed that Euthanasia was to be applied to these incurable patients?

A. As far as I can remember, the first time was when Bouhler visited me, I believe late in the summer of 1940, at my institution. I believe I suspected it before hand, but as far as I can remember I was told by telephone from Berlin about nine in the morning that Bouhler was going to visit me and I was not to leave the office. The call had been announced and then I was told he was going to visit my institution. I waited at the office and told the official that when the Reichsleiter came, he should be shown into my office. Then Reichsleiter Bouhler came to my office and asked me to show him around the institution. I took him to various buildings, I showed him the treatment building, the reception room, the acute cases, the very old patients and I showed him the purely anti-social departments, also the head working details. At the end of the discussion, I asked Reichsleiter Bouhler to tell me whether Euthanasia measures were responsible for the transfer of these patients. And then I saw the decree of the Fuehrer for the first time. If you ask me about the date at the top of it, I must tell you that I cannot remember. I looked at the decree and I know that there was the insignia at the left top of it. They told me in Frankfurt that it was in gold, but it was not in gold, I would have noticed it immediately. It was black sign. It was not a photostatic copy, but whether it was a carbon copy or not I cannot say. I thought it was the original, according to the signature Adolf Hitler at the bottom at the right, but I don't know for sure. I always thought that the names Brandt and Bouhler were on two different lines, but it could have been on the same line I am not sure. I cannot remember that it talked about incurably sick people, but it talked about incurably insane people. I may be mistaken, but I think at the bottom at the left, it said, "To the Reich Ministers." I think it said Reichs Ministers. I read the decree, then I said to Bouhler and asked him

what would be done when Euthanasia would begin. He did not give me any answer, he said that the law was being worked out, the regulation for the execution for this law were being worked out. That was the sense of what he said and also that the law would be published at the proper time. I said that it might be expedient to have a plebiscite on this question, but Bouhler for political reasons rejected this, he said it was impossible for this to be done because there was a war on. That is more or less what I discussed with Bouhler at that time and Bouhler said he was strongly impressed by many of the things he had seen. He had a terrible impression he said of many departments in which there were the terrible cases we have discussed here already.

Q. Now, Professor, when did you first receive conclusive knowledge, that is became fully aware, of the fact that those persons declared permanently incurable were to be accorded a mercy death?

A. I learned that in the way in which the general population learned it. The transports were taken away from my institution, the first ones were by motor bus. I think Vorwerk was present at the first transport, but I am not sure, however, I think he was there. The transports left and I don't know if it was after the first or second transport, I don't remember the date exactly, but I think it was in the late fall of 1940 or the spring of 1941 but I cannot tell you exactly, in any case after the second transport approximately it was said that patients in these transports had died, because the relatives had in the meantime received the death notice. There were a number of rumors which were spread among the relatives, who visited the patients on the usual visiting days. They came out from Munich by train to my institution and the rumors were spread on the train. One or two people came to me and told me about the death of the patients and that is how I learned about it. Then I believe I received instructions, I don't know whether it was from Berlin or Munich, I think from Berlin, I was to work out a letter to the effect that by order of the Reich Defense Commissioner, within the framework of planned economy measures, registration was to take place in the mental institutions. Something like that such and such

a patient had been transferred for this reason to another institution. This was all that I was told and that the relatives would be informed by the other institution about the patient's arrival and his well being. That is how it was as far as I can remember.

Q. Well now Doctor when did the occasion arise of necessity for you to ask your employees in the institute to take an oath, similar to the oath that we see here in the Documents that they would keep secret all the activities concerning this particular phase of your work; when did that occasion arise? Doctor, in Document Book No. 17, there is on the next page, page 8, an affidavit on an obligation signed by Erich Frank, I presume Erich Frank was one of your employees?

A. That was my administrator, deputy administrator as the administrator was away in the war.

Q This obligation by Erich Frank is dated 20 February 1942, and then on Page 7 there is an obligation of contract so to speak, signed by three women. That is dated April, 1941, I don't happen to have any others here at the present time, but when did it become necessary for you to require your employees to sign such obligations or contracts? If Defense Counsel has German Document Book 17, I would appreciate it if he would submit it to the witness for his perusal.

A Yes, please. I can remember both these documents, that is, I can only remember seeing photostatic copies. These photostatic copies were shown to me during an interrogation here. I don't remember the date. Was it in October or when?

DR. FROESCHMANN (For Defendant Brack): Mr. President, may I interrupt for a moment? I should merely like to point out that this obligation in Document Book 17, Page 7 refers to proceedings before the Reich Committee, that is, regarding children, while the one on Page 8 refers to measures regarding the adult incurably insane patients.

THE WITNESS: I may say the following: These two obligations have nothing to do with euthanasia. They were drawn up after the creation of the Reich Committee especially for children, expressly at the suggestion of one of the men who asked me to set up this Reich Committee Station in my institution. That is completely separate from euthanasia. That is why I didn't follow you, Mr. Prosecutor, because the Reich Working Committee -- Reich Working Union and Reich Working Committee were confused. The two things were entirely separate in my mind. This is something about the Reich Committee, and it referred only to this personnel. For the moment I didn't remember these obligations at all during the interrogation here. I thought they were forgeries. But I thought it over for a long time, and then I remember that I had to issue them. That was after the visit, as far as I can remember, after I had to send the pediatrician to Berlin, and he came back and told me it was top secret, and that the person working on it had to be obligated to secrecy. That referred only to my administration and to the personnel for observation and treatment in the Reich Committee Station, that is the nursing personnel.

Now, to go over to the Reich Working Union, the real euthanasia, Gentlemen, I never issued any written obligation. I said to the personnel, I don't remember exactly when, that the transports were to be kept secret, that they were not to be discussed or talked about. It was not merely secrecy of the official to which he obligates himself under an oath of office, but beyond that there were things which one does not talk about, because the personnel discussing them might start rumors. I said, "I don't talk about it either."

A man visited me once at the institution. I think it was Dr. Schmalenbach. He came from Berlin, and he suggested to me -- He had questionnaires from me that he was checking on, the questionnaires, to see whether the patients who were reported there were called ready for transfer from me. That is, he had a certain supervision. I had a fight with him because I objected to that. He was a rather young man. I was an old, experienced psychiatrist, and I said that I considered this thing and took care of it carefully with my physicians and my own personnel, and I didn't think this was necessary, but I couldn't object. Of course I couldn't do anything about it. He said to me, "Is your personnel obligated to secrecy?" I said, "I told them in January that they would keep it secret, but I did not tell them that there was a death penalty." He said, "You have to tell them that before our conference begins." This was a conference with the heads of all the departments and the heads of the nursing personnel and I objected to that. I said, "Dr. Schmalenbach, if you have such an assignment you can do it yourself," and at the beginning of this conference about the patients, he did so. I didn't.

Q (By Mr. Hardy) Approximately when did that occur, Doctor? The conference.

A Again I must say that I really can't remember the time. I can only reconstruct that it must have been after four or five or maybe even six transports. I can't say exactly, but several transports left before that time because patients who were on transport lists, I had keep them back, the same thing that I discussed on the telephone with Falkenhauser,

that I refused, if I was supposed to give up a patient, and I thought that the prerequisites for transfer and possible euthanasia were not given I retained the patient. That is not a defense on my part but proof that as an expert I took seriously the safeguards involved in the procedure.

Q This conference that took place, that is the conference wherein your employees and your employed personnel were warned and told of the secret nature of this work, that must have taken place in the fall or winter of 1940, is that about right, after the fourth or fifth transport, is that correct?

A I can't say for sure. I don't remember exactly when the transports began. I can only say that it might have been in the winter. I don't know for sure. I think it was warm in the office, but it might have been in the spring of 1941 or the winter of 1940. I don't know exactly when, but transports left before that time.

Q Now, Dr. Pfannmueller, did you ever see anyone refuse to participate in this work, that is, any of your employees that did not wish to take this oath of secrecy when they were asked to do so?

A No, no one refused. I only had four people here and they had nothing to do with the Reich Working Union. These were the three nurses in Document Book 17, these three nurses and my deputy administrator, Erich Frank. Otherwise I didn't administer any oath.

Q I am referring to the group in 1940, the conference you held wherein you refused to tell your employees, and your visitor, Dr. Schmalenbach, was there, who administered the oath or told the employees of the secrecy of the mission and so forth. I am referring to that time, and did anyone refuse to continue their work there?

A No, no. All the personnel, all the doctors who were there were the heads of departments and all the chief nursing personnel who were present attended the meeting. I believe a protest would have had no value. It was a discussion about the condition of the patients. Gentlemen, it was necessary, so that nothing would happen, that the doctors and the nurses be present, but nobody objected. It was an oral talk without any discussion.

It was an order, you know. It was an order that they come. A statement by Schmalenbach was what it was.

Q Now, Doctor, here in 1940 then, in the fall or the winter, after the visit by Bouhler, you, for the first time realized that eventually the patients leaving in transports would go to other institutions and be accorded mercy deaths, that is, if their condition was such that they were suffering and that a mercy death would be the proper thing to do. Was that the first time, in the fall or winter of 1940 that you realized that?

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A. I believe that was about that time. The rest was assumption but I thought at any rate that this time I heard of it for the first time. A time when the driver was to begin was never mentioned. I don't know that at all. I always thought that at first there would be a general registration of all German institutions and that Euthanasia measures might then subsequently be ordered by the agencies in Berlin which I had nothing to do with.

DR. FROESCHMANN: Mr. President, I believe that the time when the witness learned of Euthanasia has been discussed so long and so often that now more questions on the subject are necessary and I ask that Prosecution go on to another subject.

THE PRESIDENT: Objection on the part of counsel for defendant Braack is over-ruled. Counsel may proceed.

BY MR. HARDY:

Q. Dr. Pfannmueller, when I asked you about the administering of oaths to some employees, I was referring to page 4 of Document Book 17 that you have in front of you. Do you still have that there? This is German Document No. 1313. I believe it is on page 4 of your Document Book - a letter from Höelzel to you. Now, would you kindly read that through and explain to the Tribunal just what the situation was at that time?

A. This letter which I read once before when I was looking at the documents I cannot remember. It is a letter from Oberarzt Dr. Höelzel from the year of 1940 in which he states he was at Schwanzsee near Kitzbuchel on leave. I can't remember the letter because at this time nothing had been said about Euthanasia at all, I assume, Gentlemen that the date in this letter is wrong, I assume so.

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I don't know whether Dr. Hoelzel who went over to the Supply office, although I asked him to remain at my institution. He explained his resignation by saying that his career would be advanced better in the Supply Office. There were many such cases among psychiatrists at that time. I asked him to stay and what was the immediate cause for this letter I don't remember if I ever received it. But of all this in 1940 I can't imagine that. What was Dr. Hoelzel to collaborate with and what way was he to collaborate. He had no collaboration except what every doctor in every institution in Germany had to do. And I don't know of a single case in which an institutional doctor in Bavaria or head of an institute in Bavaria, after the beginning of the removal of patients and after these measures the concept of Euthanasia became generally known, decided to resign. I don't know of a single case. Therefore, I don't understand it at all. Does he mean conference of the Schmalenbach type or release of the patients. I don't know but the date, gentlemen, I must put three question marks after it. And, I can't remember this letter at all.

Q. Now, Dr. Pfannmueller, at the bottom of the letter, I note here on the English copy I have, it states - in handwriting appears the following language "Received 29 August 1940 1600 hours" and then initialed Pfannmueller. Now, do you wish for me to get the original copy we have here or the photostatic copy and see whether or not that date is different?

THE PRESIDENT: The Tribunal desires to have the original of this document procured and shown to the witness.

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MR HARDY: Will the Secretary General kindly go to the Document Division and bring Document No. 1313 which is in English Document Book No. 17. Miss Johnson will give you the Exhibit number.

DR. PFANNMUELLER: May I add something. A reception notice of time - I never had any such stamp as long as I was director at Egelfing-Haar. It never happened that a date was recorded on incoming mail. I must assume that that was added later. It is very difficult for me to say that it is a forgery but --- it never was done by me.

MR. HARDY: We will wait until the original document arrives, doctor, and we will then go into another subject.

THE PRESIDENT: The Tribunal will now be in recess while the original document is being procured.

THE MARSHAL: The Tribunal is again in session.

DR. MARX: Mr. President, as Becker-Freysong's counsel I request that for the purposes of preparing his case that Becker-Freysong be excused from attending the session this afternoon and tomorrow afternoon.

THE PRESIDENT: On request of counsel for defendant Becker-Freysong the defendant Freysong may be excused from attendance before the Tribunal this afternoon. I understand that Becker-Freysong's case will be called following the case of the defendant Brack. I do not know when the defendant Brack's case will be closed, but defendant Becker-Freysong may be excused this afternoon.

MR. HIRDY: I understand, Your Honor, that defendant Brack

(German coming through the microphone as well as English, not understood.)

THE PRESIDENT: The defendant Becker-Freysong may be excused before the Tribunal this afternoon, and did counsel ask for tomorrow afternoon also or tomorrow all day?

DR. MARX: Mr. President, I asked also for tomorrow afternoon.

THE PRESIDENT: The defendant Becker-Freysong may also be excused from attendance before the Tribunal tomorrow afternoon on request of his counsel in order to consult with the defendant in preparation of his case.

CROSS-EXAMINATION (Resumed)

BY MR. HIRDY:

Q Dr. Pfannmueller, during the recess I presented the photostatic copy of the document No. 1313 - which is found on page 4 of the English Document Book No. 17, Your Honor. After reading that copy does that bring any other thoughts

to your mind, Dr. Pfannmueller?

A No, I see now that the copy of the document corresponds with the photostatic copy, and I see that that handwritten remark at the bottom is mine, however, I can not recall that any agreements were made on the basis of this letter. Not at all so. Perhaps this letter was written after the Gutachter conference, or something, I don't know.

Q Well, then is that your initial on the document, Doctor?

A Yes. Yes.

Q Well, now in connection with this document is the writer of the letter referring to your work in connection with the Reich Committee, that is the children, the children patients in this institution?

A That I don't know any longer. But it could be that he was to be used as a psychiatric expert or something of that sort, but I don't remember any more with the best will in the world.

Q Well, now, Dr. Pfannmueller, that is all the questions I have on that document. Will you please return it to the page? Now, when you were ordered to fill out questionnaires on each one of the patients in your Institute did such order require you to fill out a questionnaire on each and every last patient or only the patients which you deemed to be incurable?

A I don't know that for sure any longer, but I do know that in the course of the transports there was a registration required of all the inmates in the institution on the basis of the questionnaire. Then there was some directive by the Reich Minister of the Interior according to which these questionnaires should be filled out whenever new arrivals came.

Q Well, now, Dr. Pfannmueller, after you completed these questionnaires and they were sent to Berlin, then transports were arranged at your institute and said transports took patients to other homes, is that correct?

A Yes, those were questionnaires.

Q Well, now where did you receive patients from, did the patients also come to your institute from other institutes?

A Beds that became free in my institute in consequence of the transports were again occupied by patients coming from German nursing homes, and as far as I know Nussberg might have been among it. These beds were transferred to my institute. That was on the order, I believe, of the Reich Ministry of the Interior, I no longer know exactly whose order it was.

Q. Now, how many Jewish inmates did you have there; you had a considerable number of Jewish inmates?

A. I don't know now, how many Jewish patients I had, but there is a Document that I read here-just a moment.

Q. That is in Document Book No. 17, Dr. Pfannmueller page 6, No. 1310.

A. Just a moment, please. I don't have it here. I am sorry, Page 91?

Q. Doctor maybe I can help you. I have one Document here, which I wish to refer and this may help us. Now if you will kindly read that over once, then I have some questions to put to you. This is Document No. 1310 in Document Book 17, Page 6.

(The Document is handed to the witness.)

Now, Doctor, this letter states under the subject, "Transfer of Mentally Ill Jews - Re: Ministerial Decision of 4 September 1940, No. 5236 a 44:" can you enlighten us as to the Ministerial Decision that you received?

A. That was the consequence of the Ministerial Decision, the transfer of Jews from my institute to Jewish institution. I believe, there were about fifty Jewish patients who were in my own institute.

Q. Do you recall, Dr. Pfannmueller, just what this Ministerial Decision said; did you receive an order, a printed order, and do you recall the contents of the decision?

A. This Ministerial Decision said that all Jewish patients in Bavarian Mental institutes were to be taken into my institution, where they were to be treated and cared for until on orders of the Ministry they were again fetched away. The Bavarian Ministry of the Interior would

turn these people over to me and then the Jewish patients in Bavarian institutes were to be transferred to Jewish institutes.

Q. How many Jewish patients were sent to you as a result of this decision?

A. This decision had nothing at all to do with Euthanasia.

Q. No, I am not referring to Euthanasia. I am merely trying to clarify the transfer of the Jewish patients were sent to your institute as a result of this order, just fifty or more; do you recall?

A. Those that were sent to my institute from elsewhere?

Q. Yes.

A. There was more than that, there was more than one hundred. I cannot tell you the exact number, but there were more than one hundred. It was all the Jewish patients from all Bavarian institutions, which were transferred to me and were put in a separate building.

Q. Now where did they go after having been received by you; do you know whether they were sent to Lublin, Poland?

A. I cannot tell you that for sure. I know only one thing, I was told to surrender these Jewish patients again because they were taken to a Jewish collective institute. This was to be done on directions from Berlin. It was said they were to be sent to Jewish institutes in Poland. That was never told to me officially by the Ministry, but I asked a man in charge of a transport, where he was going and that is what he told me. They were going to a Jewish institution in Poland. Whether the word Lublin was mentioned, then or later I heard the

name Lublin, that I do not know.

Q. Now you say that at that time that is how the name Poland became known to you and later you understood they were transferred to Lublin; when you refer to later, do you mean now or much later; just what do you mean?

A. I mean by that when inquiries regarding Jewish patients were made as to where the patients were. Now once when I was in Berlin, I was told that they were sent to a Polish institute and I think that was Lublin. Unless the men in charge of the transport lied.

Q. Well now, were you required to fill out questionnaires on these Jewish patients that passed through your institute?

A. No.

Q. Dr. Pfannmueller, it is my understanding, according to the evidence here and according to a chart drawn by Viktor Brack, later you were made an expert and it was your function to expertize questionnaires from other institutes. And I imagine that the reason for your being an expert was, because of your years of practical experience in your institute, I would like to know just how you happened to become an expert; who requested you to take that position and what your functions were as an expert to expertize these questionnaires sent to you by Professor Heyde or one of the other top experts; do you understand what I am talking about, Doctor?

A. Yes, I get the rough idea. The Reich Ministry of the Interior wrote me personally asking me an expert within the framework of them and this fell to the Reichs Working Union. Then I was set up as an expert, as I said, upon what the basis was decided at the experts

conference in Berlin. I only received a photostatic copy from the various institutes. Plus or minus, all questionnaires were marked by me, but only as a preliminary expert. I think there were three or four preliminary experts, then it went to a file expert in Berlin. Now what the decision was there was not my concern, so I don't know about it.

Q. Well, now you received these questionnaires from other institutions, what were you instructed by higher authorities in Berlin to do with the questionnaires?

A. I was to expertise on the Medical questions that were to be found in the questionnaire. In other words, to make a note in the left lower corner whether I thought that this case was one that should be transferred to a land nursing home or not. I simply had to judge in the preliminary procedure from the medical psychiatric point of view and to put my observations down.

Q. Well now if you decided they should be transferred to a nursing home.....?

A. I had nothing to do with that and I had nothing to do with the transfer of these people, not the slightest. I simply had to make the preliminary expert judgment, whether the case should be transferred or not, or were amenable for transfer, was decided on the basis of my expert opinion. It was not my concern.

Q. Well now what recommendations could you make; could you make one, two, three or four different recommendations on each questionnaire submitted to you?

A. Of course.

Q. Well, now suppose.....

A. I had many doubtful cases.

Q. If you received a questionnaire regarding the

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case of a person who was incurable and the questionnaire completed outlined the conditions attending the patient and you decided upon reading the questionnaire that this particular patient was permanently incurable; what suggestions or recommendations could you make?

A. If he was incurable?

Q. Yes.

A. In my opinion?

Q. Yes.

A. Then I could put down that he was a positive case for transfer either plus or minus was written on the lower left hand corner, no case history was written or any personal examination. I made my judgment on the basis of my opinion of the questionnaire. According to my impression.

Q When you gave, say, for instance, an opinion, and your diagnosis was that this was a plus case, did you have knowledge as to whether or not that patient, if decided by the top expert and the other experts that it was a plus case, did you have knowledge as to whether or not that patient would be given the privilege of a mercy death?

A No, I didn't know that, because the final decision rested with the doctor at the institution to which the patient was sent. I found out that patients from my institution who had had expert opinions expressed on them by other preliminary experts later died. That I did find out.

Q Well, did you know at all whether or not a questionnaire which went through all the experts and the top expert and was classified as a plus case, that that patient would be accorded a mercy death?

A No, that was outside my competence. I did not know, I did not decide that.

Q What I am trying to find out, Doctor, is when you perused and studied one of these questionnaires and you were ordered by Berlin to make recommendations and you had three recommendations to make -- $\frac{1}{2}$ plus, minus, and so forth -- and you recommended that this particular patient was a plus case, what effect would your recommendation have? Were you informed as to what effect it would have?

A No, I simply received orders to act as a preliminary expert and to express my medical and psychiatric opinion on the condition of the case which was then to be sent by authorities with whom I had nothing to do, to a nursing home. I had nothing to do with these other things.

Q Now, when you were finally commissioned by Berlin as a expert, were you told by the top authorities in Berlin or did you have reason to believe that you were acting as an expert within the framework of the so-called euthanasia program?

A That I was working within the framework of the euthanasia program? That is probably what resulted from the whole affair, but directly within the framework of the euthanasia program I did not work. I worked simply as a medical specialist. As I said, I had no effect or influence on the out-

come of what I happened to do as a medical expert just as any medical expert appearing in a case before a court.

Q Now, Dr. Pfammuehler, did you have a Dr. Schmidtman in your institute as your deputy?

A Yes. He was my first chief physician.

Q How long did he work as your deputy? Do you recall?

A From the moment that I was called to the institute at Egling-Haar as a director -- that was February 1938 -- until I was taken away on 1st of May 1945.

Q Well, now, did you, after you assumed these new duties as an expert to expertize questionnaires of other institutions, did you then have another deputy, or were you able to carry on both your work at the institute as well as your expert work?

A I did not have a deputy as an expert. I had been personally appointed as an expert. Consequently, I could not have any one else do this same work, and I did not try to. At the beginning I was very overburdened in my work, and the activities as an expert I took care of first because I thought that this was an honorary appointment. I filled out the questionnaires alone. I worked on the photostat copies alone.

Q How long did it take you to expertize each questionnaire?

A That question was asked me in Frankfurt. I can not be answered just off the cuff. Only an expert or a physician can answer that question. If I am working on such a questionnaire and if I have experience in working on such questionnaires, I can under some conditions take care of the questionnaire relatively rapidly according to psychiatric-medical questions. Some of them I got done soon; others I don't get done at all.

DR. FROESCHMANN: Mr. President, I object. The witness has gone into these matters in direct examination at great length. I do not understand why the matter has to be ventilated again. Consequently, I object to the series of questions now being put to the witness.

MR. HARDY: May it please Your Honor, just as Defense Counsel said, these questions were taken up very elaborately in direct examination, and

it is my understanding that the purpose of cross examination is for the Prosecution or the cross examiner to go over the material taken up in direct. I can't go outside the material that was taken up in the direct.

THE PRESIDENT: The objection will be overruled.

BY MR. HARDY:

Q After you had received these new duties as an expert, did that require all your time? Were you able to still devote some of your time to duties as director of the institute?

A The fact that I was delivering expert opinions did not obligate me to give up my activity as director of the institution. I used every free minute to work on these questionnaires. Usually in the morning I did my regular duties at the institution, and then at night, often until midnight or one o'clock in the morning, I worked on the photostats of these questionnaires. I did not take off any Saturday or Sunday. Even on Sunday afternoon, instead of taking a walk with my wife and children, I sat and worked until late at night.

Q Well, Doctor, how many hours a day did you work as an expert; can you estimate?

A No, I can't tell you that. I don't know. I did not keep an eye on the clock, and this business of delivering expert opinions. I emphasize again, is not a matter of time but a matter of the content of the questionnaire. Sometimes I can look at a questionnaire for half an hour without being able to make anything out of it. I also went through every questionnaire twice, and between looking at it for the first and second time, I let a lapse of time of at least a morning or an afternoon take place before the questionnaire finally went out.

Q Now, Doctor, will you kindly turn to Document NO 1129, which is Prosecution Exhibit 354. I'll send a copy up to you to make it easier for you. This is in Document Book 14, Part 2.

THE PRESIDENT: What page is it on?

MR. HARDY: It is to be found on page 179, Your Honor.

BY MR. HARDY:

Q It will perhaps be easier for you to follow me, witness, if I pass you up the photostatic copies of this document.

A I'll take your word for it.

Q The first page of this document is a letter from you to the Reich Association of Hospitals and Nursing Establishments, Berlin, to the attention of Professor Heyde. Exhibit 354.

I might inform the interpreters that for the next two or three days we'll be taking up the problem of euthanasia while the defendant Brack is presenting his case, and it may well be that we'll discuss Document Book 14, Part 1; Document Book 14, Part 2; Document Book 14, Part 3, and Document Books 15, 16, and 17.

Q Now, this first letter in these series of letters refers to a letter of 12 November wherein Heyde sent to you 300 questionnaires for your expert opinion. Now, he apparently sent those on the 12 November and you are returning them on the 19 November. Then you will see the next letter, Dr. Pfannmueller, is 22 November wherein you are returning 258 questionnaires and the third letter is the 23 November and you are returning 300 questionnaires. The fourth letter is the 26 November and you are returning 300 more questionnaires. And, so on through this entire list you are returning these questionnaires which you have given an opinion on up to the date of 1 December 1940. And then you jump to 15 April 1941. But, up to 1 December 1940, that is from the 12 November, this document indicates that you had between those dates the opportunity to expertize 2058 questionnaires. Now, what I am anxious to know, is how long it would have taken you, as I asked you before, to evaluate one questionnaire because it is obvious from this document, Doctor, that from the period from 12 November to, we will say, the 17 December you had the opportunity to expertize and did expertize 2058 questionnaires. Now, if you had been working ten hours a day on questionnaires you would have been able to do about 121 questionnaires per day, that is, if you took five minutes on each questionnaire -- now, would that be a true picture?

A I don't understand your final question.

Q Would that be a true picture - what I am presenting to you for your consideration - the length of time?

A No. I, as a doctor I regret I cannot follow this legalistic trend of thought. From these numbers it cannot be seen at all what would be expertized, where and what the cases were. At the beginning it could have been cases that could have been easily expertized easily and rapidly. These numbers may include lots of cases that I never worked on at all. I could have sent the whole batch back without working on them and I ask your pardon but here I am a doctor confronted with a lawyer and our points of view are completely divergent. You cannot

calculate the length of time in working on these questionnaires. In German law, that is penal procedure, you can find questionnaires that are as long as six weeks in questionable cases that come up before the Court. And after six weeks you can from those come to a conclusion and, if this actually comes to me I would then ask again for several weeks more to expertize this particular case. Sometimes, on the other hand, it takes eight to ten days to expertize questionnaires. As I say, it all depends on the contents of the questionnaire. As I said before, we simply aren't talking the same language. I regret that.

Q Well, now, Doctor, what I am trying to ascertain from this document is whether or not you expertized over 2000 questionnaires during this period of time. It appears to me quite obvious that from the 12 November to the 1st of December you had the opportunity to expertize over 2000 questionnaires and in fact you state in your letters in each instance that you are returning to Heyde a certain number of questionnaires which you have already examined. Now, then, if during a period from 12 November, that is the first date when these questionnaires were shipped to you from Berlin, and I presume it took a day or two for the questionnaires to get to your institute, from that date to 1 December, which is approximately 20 days, now in that period of 20 days it seems evident to me here that you had the opportunity to expertize over 2000 questionnaires. Now, can't you see how important it is to a layman like myself and the Tribunal to have you explain to us just what length of time is necessary for a psychiatrist, and a man with your experience, to study one of these questionnaires in order to determine whether or not this should be a plus case or a minus case. Do you understand the import of my questioning, the reason for it, now?

A I already told you repeatedly - I can't lay down an average length of time to work on any one questionnaire and I don't understand your mathematics here because I had to concern myself with the contents of the questionnaire.

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A I already told you repeatedly - I can't lay down an average length of time to work on any one questionnaire and I don't understand your mathematics here because I had to concern myself with the contents of the questionnaire.

Q Now, Doctor, let us go to the question of children - the Reich Committee. Now, when did you first receive information and when did you jsut first become familiar with the Reich Committee for Hereditary and Constitutionally Severe Diseases?

A That must have been around April 1941. I see that from Document Book 17, page 7. This is the outline of the duties for the nurses in nursing homes. I can't tell you the precise date when it was. It was after a meeting in the Ministry of Interior when I was told to establish a branch of this Reich Committee in my institute.

Q Well, now was it your opinion --

A Please?

Q Was it your opinion that the Reich Committee for Hereditary and Constitutionally Severe Diseases was linked up in any manner with the Euthanasia program?

A No. I repudiate any connection between the Euthanasia Program and the Reich Committee. The two things had nothing to do with each other nor do I know of any intermediate connection with the Reich Working Union. The Reich Ministry of the Interior was the office that determined to what extent the Reich Committee as such; what it was to be composed of. I don't know. That Euthanasia had anything to do with that I know nothing about. I know a couple of doctors there but whether they had anything to do with that I don't know.

Q Q Did you ever hear the name Viktor Brack associated with the Reich Committee for Hereditary and Constitutionally Severe Diseases?

A No, I know that for sure.

Q Qhy I ask you that, doctor, in Document NO-253, which is a chart drawn by the defendant Viktor Brack he stated therein: "I, Viktor Hermann Brack, having been duly sworn hereby declare that I was Oberdienstleiter, Chief of Department 2 in the Chancellery of the leader of the National Socialist Party, headed by Reichsleiter Philipp Bouhler. In this office I knew exactly all and was entrusted with the organization's Euthanasia program, and the Reich Committee for Hereditary and Constitutionally

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Severe Diseases". And in parentheses (approval for operations on newly born babies not worthy of life indicated in red spotted line on the chart. And he further states "I have carefully studied this plan, etc."

Now, the defendant Brack has outlined in this chart that his organization by the dotted lines was associated with the Reich Committee for Constitutionally Severe Disease and this action with the children. Well, now I am interested in knowing whether or not you had the occasion to have learned of Viktor Brack's association with this program, that is, with the program of the Reich Committee in as much as I recall that you mentioned the name Dr. Hefelmann and on this chart drawn by Viktor Brack he indicates Dr. Hefelmann to be the head of a division under the Chancellery of the Fuehrer. Do you understand what I am pointing out, Doctor?

A I don't know that document that you have there before you nor do I know what Brack's testimony was, but as to whether I ever knew that Dr. Brack was active in the Reich Committee is something that is entirely unknown to me, absolutely unknown. The name was never named to me in that connection.

Q Doctor, would you kindly look over that chart which was drawn by the Defendant Brack, and you will see the dotted lines around the blocks wherein his name is contained, and the names of Bouhler, Hofelmann, etc., and that dotted line continues over the top of the chart over to Karl Brandt's and through to Linden, the Ministry of the Interior, and then the outside blocks on the extreme left-hand side of the chart give the organizational set-up of the Reich Committee. Now, this was drawn for us by the Defendant Brack himself, and you will notice the oath by the Defendant Brack in German in the left-hand corner. Now, will you kindly study that and see whether or not this refreshes your recollection to any extent?

A I never saw this chart before. I only know that the Reich Committee had something to do with the Reich Ministry of the Interior. I see these lines that show that connection, but I never saw this organizational set-up before. I am always under the impression that you believe I took part in organizing these things. I had nothing to do with all these matters.

Q Well now, did you associate the name Hofelmann with the Reich Committee, or did I misunderstand you earlier today?

A No. Hofelmann I associated with the Reich Committee, but I don't know anything about his activities in the Reich Working Union. I don't know what his functions were.

I simply know that Hefelmann - that is, this is my opinion - I believe he was in the Reich Committee at the beginning and signed for it, but I don't know.

Q Thank you. Now, Doctor, in April, 1941, you first heard of this Reich Committee. Now, when did the enterprise develop?

A Probably that is when I heard about it, yes.

Q When did the enterprise develop to the extent that the authorities in Berlin, that is the state through the Ministry of Interior, granted the permission that children suffering an incurable disease, children deemed to be in such a condition, that it would be only worthy to accord them a mercy death? When did that start to function, that is the actual according of mercy deaths to children in this category?

A That was a conference. I received from the Reich Committee, which I never heard of before, knowledge of a conference in the Reich Ministry of the Interior. I was asked to attend this conference. That was in the Ministry of the Interior under the chairmanship of Ministerial Director Schulze, as far as I can recall, and I believe also the deputy of the President of the Upper Bavarian District Association was there. At any rate I was called to this conference. There were present besides those two I just mentioned, well, maybe Von Hogenor was there, or Hefelmann, one of those two anyway, I don't know, and Dr. Wenzler. I know that Dr. Wenzler, who was a member of the Board of Directors of the Union of Hospitals for Sick Children, was told by the Reich Committee to take care of the registration of all these sick children. First of all such a station was to be set up in the Children's Clinic in Munich. This, I believe, was turned down because of

lack of space and because they had enough work to do there anyway. Then they hit on the idea that not only surgical cases of physical deformation were involved but also because mental cases were involved, as I say, they hit on the idea of setting up a department in the children's house at Eglfing-Haar at the expense of the Reich Committee, and this department was to take care of these children. I made space available, and I was given a doctor by the Children's Clinic. I had to send this doctor to Berlin and he came back with authorization as to just what measures were to be used and things were to be done, like the term of observation or the details about the treatment, all sorts of things, what the vitamin treatment was to be, what the operative treatment was to be, what sort of occupational therapy was to be used, and so forth. These cases were those where the child could be expected to live only for a very short length of time, and it was those who were to be put to sleep somehow.

Q You mentioned the name Von Hogener. Could you spell that for the record, please?

A H-a-e-g--- H-e-g-e-n-e-r, Von Hogener.

Q Von Hogener played a big role in this Reich Committee, did he?

A That I don't know. I only know that he sent me the authorization.

Q On Friday you stated that after this Reich Committee was established and state authority was granted or given for this purpose that in your institute you had several children who you deemed to be in such a condition that they should be accorded a mercy death. Now, how many such children did you deem to be in that condition in your own institute?

A That I can not tell you. Children from the institutions and nursing home at Neu-Oetting, Schoenbrunn, etc., all of these children I took over along with the nurses. Now, how many of them were fit I don't know, but the great majority of them were terribly ill. I have never seen children as sick as all that, but just how many there were, that I am sorry I can not tell you.

. Can you tell us, Doctor, this is of considerable interest to me, as to what form would the euthanasia take, that is, how would you be able to accord these children a mercy death without too much suffering, etc.? What did you use? Were there certain requirements outlined by the state and the Reich Committee, or was that left up to the discretion of each doctor? Can you enlighten us on that, Doctor?

.. That was left to the discretion of the physician himself obviously. The doctor who came from Berlin certainly had a policy laid down by Berlin, and in my institution luminal was used, I believe. I believe I once said veronal was given but this is wrong, it was only luminal.

. How much luminal would be required to accord one of these terribly sick persons a mercy death?

A Please?

. How much luminal would it require?

A The situation here is exactly as with the question of time involved, it varied greatly. A hydrocephalic can take dose after dose of luminal. The maximum daily dose as set down by law, that dose was, under certain circumstances, not sufficient, and, on the other hand, it could happen in the case of an idiot with a stronger developed heart activity, he is capable of taking more than that dose of

luminal . You just have to give the child enough luminal so that after a few days he just quietly goes to sleep, and I must emphasize this is not a matter of poisoning. The child simply dies of a certain congestion in the lungs, it does not die of poisoning as I said once before, and an interference with circulation in the lungs. I have seen this work myself, and if there is anything such as putting a person to sleep gently then this is certainly it to accord a mercy death.

Q Now, do you have to apply more luminal to a person that is older? For instance, would it require more luminal with a person one year of age or ten years of age, or is that a factor at all, Doctor?

A The maximum doses are arranged according to age. It is prescribed that for children up to a certain age we give a dose of luminal which is one-third as small as in the case of adults. These doses are prescribed these maximum doses and vary greatly and are always being revised.

Q Well now, these children in your institute that were in such a dreadful condition, did you use your own discretion as to whether or not they should be given luminal or did you have to fill out a questionnaire and have that sent to the Ministry, or was it solely up to yourself?

A The questionnaires had nothing to do with giving the child luminal and putting it to sleep.

Q No, I am trying to determine whether or not questionnaires were also used by the Reich Committee as well as by the euthanasia program. I am not confusing the two, Doctor. I am merely attempting to find out whether or not a child could be given luminal so as to relieve him from his pain by merely the decision of yourself or another physician of another institute, or was it necessary to have the opinion of some other psychiatrist or expert?

The way things worked was quite different. I did not make the final decision. The child was sent, or was announced in Berlin through the questionnaire, then as I found out these questionnaires were worked on by experts. I don't know how many nor who they were, I only know that Dr. Wenzler was one of these final experts, and what the procedure of expertising was in detail I do not know. I did not have anything to do with it. Then on the basis of the questionnaire a decision was made in Berlin and an authorization was sent back to the institute saying that within the framework of the directives of the Reich Committee the child should be accorded the treatment and then the child was treated accordingly. Despite this authorization from higher up I could still, if I was of a different opinion, namely that the child was not a case for treatment, or to be more exact, a case to be put to sleep, I could nevertheless if such was the case still refuse to follow the authorization and send the questionnaire back. Then after watching and observing the child for a long time with special personnel, two nurses, and then I had the child continually observed by my pediatrician and ascertain exactly what the case is, that the case histories were worked out most meticulously, because there also was a scientific purpose in the procedure, particularly in the case of our feeble mindedness and exogenous and indigenous problems and we discussed this case with all the personnel concerning once more, then finally I could together with my pediatrician, say now "the case can be treated," and then the date for the treatment was determined on. Then I received notice when the treatment began and the relatives were informed - not about the treatment, but that they should visit the child.

Q Now, when the children were set aside for euthanasia did you then -

A Please?

Q When you decided that children should be subjected to euthanasia to relieve them from their suffering, did you then notify the parents or guardian of the children concerned?

A Yes, they were told ahead of time by my departmental physician.

Q They were told before you applied the euthanasia?

A Oh, yes. We told the relatives that it would be expedient to visit the child because the child was sick and the relatives did come. In the beginning of luminal treatment the child wakes up from time to time until the final cumulative effect of luminal sets in.

Q Did you instruct the parents and guardian that you were going to administer luminal treatment to the child?

A No, no, that was a top secret matter.

MR. HARDY: I have no further questions to the witness, Your Honor.

DR. PELKLEIN: Mr. President, before this session is recessed may I request that Dr. Schaeffer be excused from attending the session this afternoon, and tomorrow morning, since he is not concerned in the matter now under discussion, for the preparation of his case.

THE PRESIDENT: Counsel, you are attorney for defendant Schaeffer and you desire to consult with him this afternoon concerning the preparation of his case?

DR. PELKLEIN: And tomorrow also, please.

THE PRESIDENT: Defendant Schaeffer's case will soon be called for trial. Upon request of his counsel defendant Schaeffer will be excused from attendance before the

Tribunal this afternoon and tomorrow morning, in order that his counsel may consult with him for the preparation of his case.

Before proceeding with the further examination of this witness I would ask counsel for defendant Brack if he desires to examine this witness any further?

DR. FROESCHMANN: Mr. President, I had intended to conduct a rather extensive redirect examination.

THE PRESIDENT: Very well. Before opening the redirect the Tribunal will take a noon recess, and will recess until 1:30.

(Thereupon the noon recess was taken.)

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 12 May 1947.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel for the Defendant may re-examine the witness.

HERMANN PFANNMUELLER - Resumed

REDIRECT EXAMINATION

BY DR. FROESCHMANN (Counsel for the Defendant Brack):

Q Witness, in the cross-examination by the prosecutor you essentially repeated, all the statements that you had made during the direct examination, only in a few points could your answer perhaps be clarified to avoid any errors, and it is these points upon which I should like to question you now. First of all, a personal question Doctor, you, yourself, are a neurologist.

A Yes.

Q And consequently, know the term "prison psychosis" from science. Is it true that you, witness, found yourself in such a state in Frankfurt on the Main?

A No, I did not have a prison psychosis any longer in Frankfurt, as far as I remember, it was the beginning of October until almost a year ago now. This prison psychosis was terrible, and I wouldn't want my worst enemy to go through what I experienced.

Q Doctor, I do not want to know the condition, I simply want to know when you had this prison psychosis. It seems to have been 1945-46.

A There were the acute symptoms hallucinations and illusions, condition of mental clarity, but not complete, and then I was in a transition positive personality, and in Frankfurt it became worse again.

Q Doctor, I am interested in this connection in only one further question. Does this prison psychosis still have an effect on you now, particularly in regards to dates?

A My memory has become considerably weakened since I was ill, and perhaps even before that time, because of all the conditions of arrest

and removal from my work. I don't know, but there are many things that I can't remember at all and many things that I can only remember partly.

Q Doctor, I ask this question only because the prosecutor at the beginning of his cross-examination, submitted various things to you that you had said in Frankfort to the American interrogator or the German investigating official, and because the impartial observer must gain the impression that what you said in Frankfort does not agree with what you said during your direct examination.

A During the interrogation here, before I went into Frankfort, I was in worse condition. Suddenly being locked up was a terrible experience for me, and I believe I can say that I had signs of hallucinations. I was not aware of any difference.

Q Doctor, it is my impression that you made visible efforts to speak the absolute truth?

A I think I can say that.

Q And did so in all the questions that the prosecutor asked you. Let me now turn to the matters that I should like to discuss with you myself. The first subject is the following. You spoke of the how Top Secret matters were treated. Do you know that it was a general rule in Germany that administrative officers, Wehrmacht officers, etc., had specific orders, according to which the so-called top secret matters were to be handled only by people who were specifically authorized to.

A Yes, that was the case even before the war when my personnel were drafted into the army. I myself was obligated. I put the papers into the safe myself.

Q Can you also say that on the basis of this order authorized people were obligated by a handshake and were informed of the provisions of German law, that if they failed to maintain secrecy they would be subject to severe penalty and to the death during wartime.

A Yes, I know that when the mobilization orders came out I myself was obligated to secrecy by a handshake by my superior authority, and I was told that there were severe penalties and perhaps even the death penalty.

Q. Then this obligation to was a general secrecy measure in the interest of the security of the German Reich?

A. I assume so, as the oath of office of the civil servant is the basis of his function.

Q. Now, the second subject I should like to broach. The Prosecutor has charged you on the basis of Document No. 1313 in Document Book 17, page 6 of the English Document Book. This is the letter that Dr. Hoelzel sent to you?

A. It is on page 4.

Q. Yes, page 4. It is dated 28 August 1940. I am now interested only in the date. I should like to discuss this letter with you briefly. Do you have the book before you now?

A. No, I handed it in.

MR. HARDY: May it please Your Honor, Defense Counsel has stated erroneously that the Prosecution has charged this witness with some activities. I don't know what he is referring to, in connection with this document. I merely put the document to the witness for an explanation, I haven't charged the witness with anything, to my knowledge, and I wish that to be clarified.

DR. FROESCHMANN: Mr. President, I quite agree with the Prosecution, but I do believe it will help the Tribunal if I did ask one question regarding this letter.

THE PRESIDENT: Counsel may propound the question.

BY DR. FROESCHMANN:

Q. In this letter on page 4 I shall hand you the document. "What has entered to me the work in the Children's House was not the scientific interest, but the physician's urge, midst our often fruitless labor, to help and at least to improve many of our cases here. The

psychological evaluation, and the curative and pedagogic influence were always much closer to my heart than anatomical curiosities, no matter how interesting they were. And so it comes about that, although I am sure that I can preserve my full objectivity in giving expert opinions, I feel myself somehow tied emotionally to the children as their medical guardian."

Doctor, my question to you is, it can be seen from this letter of Hoelzel that at that time you wanted to commission him with the direction of this children's home, so that he could apply new therapeutical methods there?

A. I cannot deny that possibility, but it is also possible that at the time the first questionnaires were given out for the registration of these children, I don't remember.

Q. Thank you. The third question. At the conclusion of your testimony, it was said that you, witness, did not ask the consent of the parents of the children who were to be subjected to Euthanasia?

A. No, that was not done.

Q. Now my question is, do you know that the consent of the parents for admission to the Children's Home and thus to the possibility of Euthanasia had to be given to the Amtsarzt?

A. I know that the Amtsarzt could send the children to the institution on the basis of the questionnaire. I also know that the children could be accepted only with the consent of the parents. The child simply came to me, I did not ask the parent's consent either. They were sent by the Amtsarzt or by the family; but I don't know what the parents were told about the treatment given to the Children.

Q. This morning you said, in answer to a question by the Prosecutor which had to do with the collection of Jewish mental patients in your institution and their later transfer to Poland; do you remember that?

A. Yes.

Q. I put to you now Document No. 1135, an excerpt of which is contained in Document Book 14, Page 25. This is the collection of the transport lists, which had to be shown to the director of the mental institute by the transport company whenever there was a transport and the patients who were listed were compared with the list given the institution. Now please take a look at this list and tell me what you know about the accompanying letters from the transport company, how does it begin?

A. "In accordance with the decision of the State Ministry of the Interior, I have upon order of the Reich Association of Mental Institutions, Reichsarbeitsgemeinschaft, and as responsible chief of the General Patients Transport Company G.m.b.H., taken charge of the transfer of the patients enumerated in the list below to a Reich institution." I don't know the letter.

Q. You do know this letter, don't you?

A. No, I never saw it.

Q. Your administrative officer saw it, is that what you mean?

A. No, we did not fill that out, we never saw it.

Q. You don't understand my question. If a transport train reached your institution and fetched away patients, you had previously received some sort of a notice to prepare for the transport a certain number of patients; isn't that so?

A. No, the method was a little different. I was given

transport lists; these lists said that the patients were to be picked up on such and such a day by the General Patient Transport Company.

Q. And then the leader of this transport filled out this certification that you just read?

A. I don't know, I merely had him give me a confirmation that he had taken such and such patients.

Q. And it says here, "In accordance with the decision of the State Ministry of the Interior, I have, upon order of the Reich Association of Mental Institutions."

A. I don't see that. No, this is signed by the commissioner.

Q. But in the confirmation itself, it says, "In accordance with the decision of the State Ministry of the Interior and upon order of the Reich Association of Mental Institutions;" I lay particular weight upon those two words. Now, if you will turn a few pages over where I stuck the little slip of paper, this is a list of the Jewish patients who were taken away on 20 September 1940, is there an accompanying letter?

A. No, there is no accompanying letter, no, no.

Q. Please examine the document carefully.

A. Oh, yes, here it is; on page 13, you mean.

Q. Now, when adult incurably insane persons were fetched was there not a printed form that was used?

A. No, this paper -- the patients were taken by me today, leader of the transport, Eglfing-Haar and the date --- that is by me, because I told the man I wanted a receipt for the patients, otherwise he would not have given me any.

Q. Now, from this document please note; that regarding all other incurably insane persons there were form

lists of transports which were printed; you find transport lists six, seven, eight, etc.

A. I don't believe I filled them out, I don't know.

Q. I don't believe you did either. I simply want to ask you, and this is the point of my whole series of questions; in the transport of 20 September, 1940, in this document I have shown you, this list of the Jewish patients; was this list also contained in the printed form or was it made up especially by you?

A. I am sorry, I did not understand your question.

Q. In the document I have just put to you, the list of the Jewish patients, of 20 September 1940....?

A. The 23rd you mean?

Q. No, the 20th.

A. The 20th? On page 1e it says 23.

Q. Well, never mind the date, at least its September 1940. Let's go on. Now, I will ask you again. Is this list on a printed form list for transports, or is this list of the Jewish patients something that you yourself prepared on a special paper?

A. No, that is the list which I was given, it is a transport list giving the names and their dates of birth.

Q. And who wrote this transport list?

A. I received it from the transport company as far as I know. I don't know exactly how it was in the transfer of the Jews, but in any case the transport company brought the list. It probably came from the ministry in Munich; I don't know.

Q. If I understand you correctly, you said five minutes ago that you saw to it that you got such a list so you would have something in your hands by way of a receipt?

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A No, no, that is a misunderstanding. I got a receipt, a certificate on a copy of the transport list. The man in charge of the transport had a list, and I had earlier received a list of the patients who were going to be picked up, and on the list which I had received, on the carbon copy of it, I had had the man give me a certificate that he had taken these patients. That is how it happened.

Q Then this morning you said also that you were told that these patients were taken to Poland?

A The man in charge of the transport told me that, I believe.

Q Am I wrong in saying that on Friday morning you said that these Jewish mental patients were to be sent to a Bavarian Jewish institution?

A I can't remember saying that they went to a Bavarian institution, but a Jewish Institution, an institute for Jewish insane patients, but I don't remember exactly.

Q Do you know, Doctor, that one of the Jewish women named on this list died in Schelm, according to your own report?

A No. When I got a book or a collection of documents, from you, I found something in there about death notice in Schelm. I can't remember the name? Schelm.

Q Now, another question. When was the second meeting in Berlin in which you took part?

A The meeting of experts?

Q The second meeting.

A I don't know Doctor. With the best intentions, I can't remember. I have said so repeatedly, but it was about I think, a few months, perhaps three months, later. I don't know exactly.

Q In connections with this meeting, you were then asked to take up your activities that is how it was.

Q Doctor, you have repeatedly said, that it was in your ideas at the first meeting that this was to be a total registration of all insane persons for the purpose of transferring them separate mental

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institutions; is that so?

A Yes.

Q Now, in the course of the second meeting, was there any mention of any measures, without using the word "euthanasia," which did, however refer to euthanasia?

A Doctor, this question is very difficult to answer. I cannot deny the possibility. I cannot remember anything in detail in this connection, but I really must admit the possibility that euthanasia or measures for eliminating such patients were discussed, but I repeatedly said in Frankfurt, too, that after all these years and in view of my condition I cannot remember details.

Q Consequently, you will also admit the possibility that when carrying on your activity as an expert you knew, if not in detail, then at any rate in general, that the purpose of this expert activity was to separate the curable from the incurable mental patients?

A Yes, of course.

Q Now, one last question Doctor: You were specifically instructed by the Tribunal to refuse to answer questions that might serve to incriminate you. You have made no use of that right, and particularly in answer to the question of the Prosecutor, as to how many children there were whose lives you shortened in your institution by the use of luminal you answered in a most credible way that you gave a mercy death to 100 or 120 of these wretched creatures.

A I don't remember the numbers exactly.

Q I am not so much interested in the actual numbers as in the fact. You further replied, with no regard for your personal safety, that you had been known as an advocate of euthanasia for more than twenty-five years. Is that true?

A Yes.

Q You also said explicitly that in cases of malformed or feeble-minded children you felt justified, in view of the ministerial decision and of what was said in this expert conference in granting these

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children euthanasia after you had received previous authorization to do so, is that true?

A Yes.

Q Finally, you admitted and said that the manner of administering death that you chose was the method that could put these poor children out of their misery with the least pain to themselves, is that so? Is that true?

A Yes.

Q In other words, you acted with complete conviction of the legality of what you did?

A Yes.

Q Now, my colleague Servatius, has called one final question to my attention, which I should like to discuss with you briefly. Doctor at the beginning of my direct examination, you said that you had about 2900 insane patients in your institution in 1939 and 1940, approximately. Is that correct?

A Yes.

Q Now, when you received these questionnaires, regarding roughly how many people did you fill out questionnaires?

A I did not understand your question.

Q When you received the questionnaires regarding the incurable mental cases, you had to fill them out?

A Yes.

Q My question is: Regarding how many mental cases, approximately, did you fill out these questionnaires?

A I don't remember. I think it was less than 1000.

Q Less than 1000?

A Yes about a third.

Q Were foreigners among them?

A I can't remember any foreigners. I don't know exactly. I had a few.

Q How many mental patients were taken away, transferred, from your institution?

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A Do you mean patients from my own institution?

Q I mean only your own incurable ones.

A Certainly many less than the number of questionnaires.

Q I want to ask you how many approximately.

A Well, approximately, may be 500 to 600, I estimate. It was like this: These transports generally affected the people in transit.

Q I simply wanted to know roughly how many of the people covered by questionnaires were in the course of time transferred elsewhere.

A I can't give figures exactly, of course, but certainly not as many as were recorded in the questionnaires.

Q And these questionnaires which were made out by you, they were expertized by other experts?

A Yes, of course. They were done by other people.

Q Now, if they were expertized with a plus sign, were they pretty much in the same proportion as the questionnaires which you yourself expertized? Were there more or were there less?

A Quite a number of cases which I had judge positively were not picked up.

Q In other words to the best of your knowledge, the patients whom you designated as positive were apparently declared by other experts to be ready for euthanasia?

A I cannot tell you the reason why they were not picked up, Doctor. There might have been some other reason, but the transfer cases sent to my institution from idiot institutions were considered more urgent for transfer than my own cases, and for that reason perhaps my own cases were put aside. I cannot say, because the project did not go on. I don't know the reasons.

Q Doctor, this morning the prosecution brought to your attention the number of questionnaires that you had expertized. Do you remember that?

.. Yes.

Q At the last moment I got hold of one of the questionnaires of the

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original type. I cannot of course, put this questionnaire in as a document because the time available is too short, but, with the permission of the Tribunal and the Prosecution, I should like to show such a questionnaire form to the witness and ask him to tell the Tribunal briefly, if possible, whether the contents of such a questionnaire, if it sets down the condition very briefly of the patient, whether it could be put aside by you as positive, en masse, so to speak, or whether or not it couldn't be so n right from the beginning that hundreds of the questionnaires were filled out incorrectly and so were just put aside. How was that?

A. In many cases in filling out questionnaires I saw from the very beginning that this was not a case for transfer. In other cases, however, I was able to see immediately, if it was filled out right - that is an old idiot, that is congenital idioy, that is an old case of schizophrenic deterioration, where you can judge only positively.

MR. HARDY: Prosecution has no objection to use of this document, your honor.

THE PRESIDENT: Counsel may proceed.

Q. Witness, please take a look at this questionnaire. Now, from what you see there can you say whether this man is plus or minus, or just what is he?

A. Am I supposed to form a judgment on the patient on this form?

Q. The entry there.

A. It seems to me that it is not filled out completely. It says here -- First of all, it is not clear....

MR. HARDY: Just a moment, witness. May it please your Honor, apparently I misunderstood the import of Defense Counsel's question. I thought he merely wanted to use the questionnaire as a form to put to the witness. There are some pencil notations on this form, however, it doesn't appear from my quick perusal and my lack of German knowledge that this purports to be an application or a questionnaire completely filled out in said manner that he would have received such a questionnaire when he was acting in his capacity as an expert. If that is what Defense Counsel desires to do here, I suggest that he outline a hypothetical question in far more detail than he has done on that questionnaire and explain to

the Tribunal his purpose. Thus far I can't ascertain his purpose, what is on the questionnaire, and obviously the witness can't either.

DR. FROESCHMANN: In showing this questionnaire to the witness in its German original I wanted to give the witness the opportunity to read the contents of the questionnaire and tell the Tribunal what he has to say about what the entries in this questionnaire, so that the Tribunal can see whether a irreproachable evaluation of this patient could be undertaken. That was the purpose of my question.

MR. HARDY: Your Honor, I feel certain the Tribunal will be as interested as I will to hear the answer of the witness. However, this questionnaire has not been filled out, and if the questionnaire is not filled out I don't see how the witness can answer the question asked.

THE PRESIDENT: Submit the document to the Tribunal.

JUDGE SEBRING: Counsel, in this form that you have submitted to the witness there appears to be a considerable number of questions to be answered if the form is to be complete. However, in some of the vacant spaces after questions appears handwriting by someone. Whose handwriting is that?

DR. FROESCHMANN: That I cannot tell you at the moment, because during the noon recess I recess I received this questionnaire, and a doctor wrote what is on that form in, as an sample, so to speak. Now, I wanted to hear whether, if the witness had received such a questionnaire, he could have been in a position to say right off "I can characterize this as plus or minus," or would he have to say "I would have to return this questionnaire as incomplete".

JUDGE SEBRING: Will it not be necessary that you ask certain preliminary questions before you get to that question? One, to the witness, "What is the paper I now hand you" "Do you recognize the form?" If he should say, "Yes, it is a form often used by us in our clinical work in determining the diagnosis and prognosis of a disease of a certain person," then, "state whether or not the hypothetical clinical finding that I have written in this familiar or compares with any clinical findings you have ever seen, or is it similar to the one that was used?" Then, "Can you say from that type of clinical finding what would have been your result, plus or minus?"

DR. FROESCHMANN: Then may I ask that I be given the form again? The questionnaires are in Document book 14 II.

MR. HARDY: May it please your honor, would it be possible for the benefit of the Prosecution and Defense Counsel outline the hypothetical question set forth in this questionnaire before it is put to the witness for an answer?

THE PRESIDENT: Yes, the Tribunal see no objection to that.

DR. FROESCHMANN: Mr. President, in the clinical description in this questionnaire the following is said: "Schizophrenia - 2 relapses - last one 1917 - since 1915 final condition reached - very restless - several attempts at suicide." It says further, "Schizophrenia New case? No. - Final condition? -- Yes. Cure? - No." Furthermore "Therapy twice. - Permanent results? - NO. Those are the entries.

MR. HARDY: Might I further inquire, Your honor,

what the note is on the top of the questionnaire?

DR. FROESCHMANN: I didn't read that.

MR. HARDY: Then I assume that the witness is to ignore the note on the top of the questionnaire?

DR. FROESCHMANN: No.

JUDGE SEBRING: Dr. Froeschmann, I suppose that from the statement of facts that you have now propounded to the witness, you want him to say whether or not merely from a cursory examination he would recommend this man for the privilege of a mercy death. Is that the point?

DR. FROESCHMANN: Yes, that is right.

Witness, did you hear the judges' explanation?

A. Whether I would judge this case positively or not. Gentlemen, this questionnaire is useless. You can see that in this minute I was not able to reach any decision. The Tribunal could see that, I wanted to make a similar note before. It says 2 relapses 1917. At the bottom it says, since 1915 final condition. That is a lie. That questionnaire is inaccurate. If that man was in a final condition in 1915 he can't have relapses in 1917. I say that case can't be dealt with.

DR. FROESCHMANN: That suffices. Thank you.

DR. PFANNMUELLER: Besides, it says nothing about therapy.

DR. FROESCHMANN: That quite suffices. Mr. President-

DR. PFANNMUELLER: Such questionnaires would never have been sent out by my institution, thanks to my doctors and the intelligence of my nursing personnel.

DR. FROESCHMANN: But, you as an expert did see such questionnaires?

A. Oh, yes, I got very inadequate ones.

Q. And does that explain your statement this morning

that you could take whole piles of these questionnaires and say they were completely useless?

A. Yes, I put a red line through such things and that was that.

Q. No further questions, your Honor.

DR. SERVATIUS FOR THE DEFENDANT KARL BRANDT:

Q. Mr. President, please permit me one question regarding the number of foreigners in the institution at the beginning of the war, in 1939? Witness, how many foreigners in the institution when the war started?

A. Doctor, it is impossible for me to answer that question. Just consider, that was 7-8 years ago or something like that. I don't know.

Q. Witness, you must have some sort of impression?

A. No, I have no impression at all. I had so few foreigners - I don't think more than 5 or 6.

Q. In other words, you are able to answer the question - 5 or 6.

A. But I don't know exactly, doctor, I can't remember any more foreigners at that time.

Q. No further questions.

THE PRESIDENT: Any further questions in behalf of Defense Counsel? There being none, has the Prosecution any further questions?

MR. Hardy: The Prosecution has no further questions to put to this witness, your Honor.

THE PRESIDENT: The witness PFannmouller is excused from the witness stand.

DR. FROESCHMANN (For Defendant Viktor Brack): Mr. President, with the permission of the Tribunal, I should like to call the Defendant Viktor Brack as a witness at this time.

THE PRESIDENT: At the request of his counsel, the Defendant Viktor Brack will take the witness stand.

JUDGE SEBRING: You will raise your right hand and take the oath, repeating after me.

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

JUDGE SEBRING: You may be seated.

DIRECT EXAMINATION

BY DR. FROESCHMANN:

Q Mr. Brack, please state your full name.

A Viktor Hermann Brack.

Q When were you born?

A 9 November, 1904.

Q Your father was a doctor, a general practitioner in Wachenheim?

A Yes.

Q And then in Bad Duerkheim your father opened a children's sanatorium?

A Correct, yes.

Q Your mother was a German of foreign birth?

A Yes.

Q What was the consequence?

A In my youth I was sent to my relatives abroad, and got to know the Baltic States and Russia.

Q How were you brought up in your own home?

A We were all very strictly brought up. My mother was a very strict Catholic.

DR. FROESCHMANN: In this connection, Mr. President, I submit from my Document Book 1, Document No. 19, page 53. This will be Brack Exhibit 2. I shall read from this affidavit by a Dr. Albert Buerklin of Wachenheim in the Palatinate, of 27 January 1947, signed and certified by a notary. I shall read from Paragraph 4 the first and second sentences. "Brack's home was distinguished for its especially highly cultivated and refined intellectuality. Viktor Brack was brought up in this environment, and it was here that he absorbed the values of helpfulness, decency, and purity of thought."

Q (By Dr. Froeschmann) Witness, what schools did you then attend?

A First I had private instructions, because I was abroad a great deal when I was a child. Later I went to public school in Wachenheim, Duerkheim, secondary school, Realschule in Bad Duerkheim, later the Oberrealschule in Ludwigshafen and Munich.

In 1923 I was graduated in Munich. Of course, all my schooling was made uneven by the many changes, the war, and the shortage of teachers.

Q How did it happen you were graduated in Munich? Was there some event in your family life that necessitated your moving to Munich?

A In 1921 my parents were expelled from the Palatinate. My father had to find a new way of earning a living, and went to Munich. He settled in Munich as a general practitioner. He had difficulties, but they were overcome in a few years, because he had settled in a workers' quarter, in the suburbs of Munich; so that soon he had a very extensive practice.

Q Witness, then you lost your home in 1921, and your father lost his means of livelihood?

A Yes, he lost his sanatorium and then he lost his fortune through the inflation.

Q It was a consequence of the Treaty of Versailles, wasn't it?

A Yes, it was the result of the expulsion from the Palatinate, on the basis of that treaty.

Q At that time you were seventeen years old. Now, did these events have any influence on your further development?

A Yes, of course. We were refugees in Munich, as people today come from the east, perhaps, and are refugees here. We were received there accordingly. We had to try to adjust ourselves anew. That, of course, made a great impression on young people.

Q You have already said that your father then settled in a suburb of Munich in a working peoples' community?

A Yes.

Q And then your father through his practice got himself back on his economic feet again. Did you then have occasion to make a closer acquaintance with your father's practice, and if so, what impressions did you gain from becoming acquainted with your father's practice?

A The practice was very extensive, because it was a suburban practice. My father needed a car to take care of his practice. He himself could not drive, and so I drove him until 1932 almost constantly when I was free, in addition to my work, in addition to my studies. I accompanied him everywhere. I got to know not only his practice but above all his patients. During these years when unemployment was constantly increasing, distress and lack of funds constantly increasing, one, of course, obtained strong impressions in these families of my father's patients.

Q Then in the normal course of events you came in touch with families where sickness was a great calamity. Could you also note that the spiritual life of the families suffered under these circumstances?

A That is difficult to define. At that time, as a young man, I did not accept these things rationally but emotionally. It was absolutely clear to me, however, that when there was a long and serious illness of a member of the family, there was an automatic moving away of the family from the patient. That does not mean at all that this was malicious or unfeeling, but the relatives were often not able spiritually to cope with the length and extent of the sickness.

Q But in this way you experienced a certain feeling of pity for the sick person?

A No, I can not say that this just arose then. Sympathy with the sick is a natural thing in everyone, but from this personal observation it was increased. I can remember very clearly at this time a remark of my father on some occasion, "For him it would really be a release if he could die soon," but, of course, in all its implications I did not understand this remark.

Q Witness, what was it your original intention to become?

A I wanted to become a farmer. I began to study agriculture. I studied agriculture for three semesters.

Q Were you able to continue in these plans?

A No, I could not continue my plans. I changed horses. I began to study economics. I had to earn my own way. My father had enough to do to earn a living for the family, especially for my younger brothers and sisters. I did different kinds of work. I participated in motor-

cycle races.

Q When did you get your diploma as an economist?

A In 1928 I got my diploma as an economist at the Technical College in Munich.

Q Up to that time or later, did you concern yourself with politics?

A I did not concern myself with politics directly. However, because of the influence of my friends and fellow students, from about '23 to '27 I belonged to the artillery unit of the SA regiment in Munich, a group which had arisen from an NSDAP unit which existed before 1923, but my studies, my work, and my great interest in sports kept me away from politics.

Q What did bring you to politics then, was it general considerations or something else?

A All kinds of influences affected me, primarily, of course, the great social tension, the unemployment, the general distress; on the other hand, the fact that my parents were interested in politics, although they were not active - for all these reasons I went to political meetings, especially National Socialist meetings.

DR. FROESCHMAN: In this connection, Mr. President, I shall take the liberty of putting in from my Document Book I Document 20, page 55, Exhibit 3, an affidavit by August Pfundt, a painter in Munich, dated 27 January 1947, signed August Pfundt, certified by a Notary by the name of Nobis. I shall confine myself to reading from this affidavit only the last nine lines on page 55, where it says, "In spite of his own material needs, he Brack always, however, was helpful and willing to make sacrifices for third persons, whenever the need of others had to be mitigated. This characteristic may not have been the least reason for his taking up National Socialism, the idealistic promises of which he trusted faithfully. However, he allowed politically differently minded people to keep their own opinion, and never looked upon such persons as political adversaries who had to be combatted. I experienced this for myself, because I was an adversary of National Socialism, and at frequent meetings I discussed political questions with him."

I further submit, as Brack Exhibit 4, Document 23 from Document Book I, page 62, an affidavit by Carl Reuther of 18 March 1947, certified by the Notary's Office in Mannheim I, and I ask the Tribunal to take notice of it. I need not read it.

Q Witness, we have now reached the time when you entered political activity. Before we consider this matter further, I should like to discuss the theme that I told the Tribunal I was going to take up, namely Count IV of the Indictment, conspiracy, and I should like to ask you whether, besides euthanasia and sterilization experiments, you had any connections with the people now in the dock; nor, Mr. Brack, regarding the question of conspiracy I ask you, which of the defendants did you know before 1945?

A I knew the names of Handloser, Rostock, Genzken, and Gebhardt. I never talked to any of these men personally. I never had anything to do with them officially. I knew personally Karl Brandt, Blome, and Rudolf Brandt. I saw Rudolf Brandt a few times when I was in Himmler's

office. Aside from speaking to him, passing the time of day, I had nothing to do with him. I have known Blome since the middle or end of the 1930's, from official meetings where we saw each other and spoke to each other. Between the offices, the Chancellery of the Fuehrer on one hand, where I worked, and the Reich Chamber of Physicians on the other hand, where Mr. Blome worked, there were certainly official connections such as the Chancellery of the Fuehrer had to all Party and state agencies, but I cannot remember and I do not believe that I ever myself had any official contact with Blome.

Q Dr. Brack, let me anticipate here, within the framework of the euthanasia program you are charged with having been present at the Munich conference with Blome, and having spoken with him there; would you please say briefly whether and to what extent you had official relations or even personal relationship with Blome at this conference?

A Later I shall have to go into the meeting in detail, but about Blome I can say; I was sent to this meeting on behalf of Bouhler, as his representative. The meeting was called by Conti and not by Blome. I do not remember having seen Dr. Blome there. I cannot exclude the possibility that Blome was also at this meeting. I definitely did not have anything official to do with him at this meeting, and Blome never had any official contact with me about euthanasia.

Q How about the Defendant Professor Karl Brandt?

A I knew Karl Brandt since about 1933 or 1934. The acquaintance, however, up to 1939 was limited to very superficial contacts, as in the case of Blome. Only through the euthanasia assignment from Hitler did I come into closer contact with Brandt. I shall have to speak about that in detail later.

Q Yes, and how about the rest of the defendants?

A All the rest of the defendants I met personally and even by name only during the trial.

Q Now, what answer do you give to the question as to whether you admit or wish to deny having taken part in a conspiracy for the commission

of war crimes or crimes against humanity with any of the defendants whom you have just mentioned?

A I deny having been in a conspiracy with any of the defendants to commit war crimes or crimes against humanity.

Q So far as you were concerned, the Prosecution has made no limitation regarding certain of the experiments with which several of the defendants are charged; I must therefore assume that the Prosecution still alleges that you could have participated in experiments other than sterilization or euthanasia.

Now, I ask you, aside from euthanasia and sterilization experiments, did you have any connection with any experiments which are subjects of the indictment in this trial?

A No, I was not in contact with them, nor did I know anything about them.

Q I can leave that point now and go on to the next point. I must concern myself here with the affidavit that you made for the Prosecution. This is Document No. 426, Exhibit 160, English Document Book 14, page 10, German Document Book 14, Volume I, Witness on 20th May 1946 you were arrested?

A Yes.

Q The next day you were sent to the prison at Traunstein, on 19 June to the Moosburg Camp, and on 24 August 1946 you were brought to Nurnberg, is that correct?

A Yes, that is right.

Q You know that earlier I objected to the submission of this affidavit in evidence, and also objected to the conclusions that the Prosecution drew from this affidavit. I should like to give you an opportunity today before this High Tribunal to make a statement regarding this, in which connection I may tell the Court that with the agreement of the Prosecution, I have in the meantime received expert testimony on the part of the prison physician. This statement of Dr. Buerkner reached me through the Prosecution a few days ago. I don't believe it is necessary to put this

as a document in evidence. I assume that both the Prosecution in its cross-examination and I in my direct examination will keep the contents of this statement in mind. Now, witness, will you please tell Tribunal in what condition you.....

MR. HARDY: Your Honor, this document he is referring to the Prosecution has agreed, as stated by defense counsel, but if he wants to use it he must offer it in evidence.

DR. FROESCHMANN: If I understood the Prosecutor correctly, he wishes this document to be put in evidence, namely the questionnaire that I sent to Dr. Buerknor, with the aid of the Prosecution, and which then was answered by him, is that correct?

MR. HARDY: May it please Your Honor, my colleague Dr. Hochwald is more familiar with this than I am, and I wish he would address the court on this matter and tell the circumstances surrounding this document.

DR. HOCHWALD: If your Honor please, I received the questionnaire of Dr. Froeschmann to the German prison doctor about a fortnight ago and attached some questions on behalf of the Prosecution to this questionnaire. All of these questions were answered by the doctor of the prison. If Dr. Froeschmann wants to use this document I do think it would be proper if he put it in evidence, the document as a whole, the answers to his questions and the answers to the questions which we put to the prison doctor.

THE PRESIDENT: Does Counsel for the Defendant understand the propositions put by the Counsel for the Prosecution?

If Counsel for the Defendant desires to use the document, the entire document should be presented before the Tribunal.

So far counsel, the decision to use the document rests with you, but if you do desire to use the document the whole document should be presented.

DR. FROESCHMANN: I take it from what the Prosecutor says that my assumption is correct, namely that the Prosecution also intends to use the document.....

THE PRESIDENT: That was not stated, Counsel. The Prosecution did not state whether or not it would use the document if you did not.

MR. HARDY: Your Honor, I want to clarify this point. The situation merely is this that the defense counsel submitted interrogatories to the Doctor of the prison concerning the defendant Brack. At the same time Dr. Hochwald, on behalf of the prosecution, submitted cross interrogatories to the Doctor in the prison. The doctor in the prison answered all interrogatories put by the defense and the prosecution. I submit said interrogatories are one Document in its entirety and if the defense counsel for defense desires to use said interrogatories then we request that he use the entire documents, that he submit all interrogatories, namely his interrogatories as well as the cross-interrogatories of the prosecution.

THE PRESIDENT: That was the proposition as stated by the Tribunal. If counsel for Defendant Brack desires to use this document, the entire document should be placed before the Tribunal. But so far as I am advised, the choice of whether or not the Document will be used at all, rests with counsel for the defendant.

DR. FROESCHMANN:

Mr. President, I shall not use the Document, because I consider that many parts of it go too far.

THE PRESIDENT: If counsel chooses that position then the Document, of course, should not be referred to in any way in the evidence before the Tribunal. The matter will rest right where it is now.
BY DR. FROESCHMANN:

Q Witness, without reference to this Document, about which there was just a discussion, will you please purely subjectively tell your opinion of what your state of health was at that time and what the consequences were to you as a result of this state of health you found yourself in.

A At that time I was considerably weakened by undernourishment as well as by the period in the Traunstein prison as well as in the Moosburg camp. I had some intestinal disorders, I don't know exactly of what nature, I had very painful spasms and I was under con-

stant medical treatment. Besides, during the previous weeks in Moosburg, I had received very bad news from my family. Two of my children had tuberculosis because of under-nourishment. My wife had been arrested repeatedly and because of similar things I was very depressed mentally and very weakened physically.

About eight or ten days after being sent to this prison, I was called before an interrogator in this condition, who, without informing me as to whether I was a witness or a defendant, asked me to take an oath. I did so and then I was asked and interrogated about my work at the Chancellory of the Fuehrer, my collaboration in the Euthanasia question and other things including my membership in the SS, etc. I was also asked to make a sketch of the organization of Euthanasia. That was more or less what took place in the first interrogation; this was followed by many others. I was simply not capable of coping with these interrogations and I often tried feverishly to find words to explain some event. I was mistaken about many things, I was unable to remember many things and then I allowed myself to be persuaded again and again to accept the answer which the interrogator suggested as correct, although partly because of the German language and partly because of the circumstances, it was not always exactly true. I certainly was not capable at that time of judging these things correctly. Then, in the course of the interrogations, I don't know which one it was, I asked quite clearly whether I was under indictment, whether I was a witness, a defendant or just what I was. I said under German laws one has an opportunity to refuse to testify if one can incriminate oneself. This objection was simply rejected with the remark that this was not customary before American courts, that it had never happened that somebody refused to testify and besides I was only a witness insofar as the interrogator was concerned and he did not have to decide whether I would become a defendant.

Q In one of the interrogations of 1 September 1939, you discussed Hitler's order?

A Yes, the decree was shown to me and a conversation I might say followed back and forth as to whether this decree had the power of law for us. I answered that in the affirmative as well as I was able to express myself and at the end of this talk the interrogator asked me to sign an affidavit. It was indicated by the whole interrogation that it could only be about this one point, that is whether the decree had the force of law or not. At the next interrogation, after I had said yes, of course I will sign such a statement, to my surprise I was given the affidavit which has been presented as an exhibit. It contains a considerable number of counter-statements which I had made in the course of the interrogation. They are torn out of their context, in particular in the formulation they do not follow the wording which I used and the interrogator told me, or rather the interrogator drew his conclusions, which I myself did not draw.

Q However, you did sign this affidavit; did you make corrections or any objections?

A I made various corrections, but in many cases I allowed myself to be persuaded that what was written down should be accepted. This is the only way that I can explain it. Because of the long period of time, five, six, seven and even eight years, my recollection was very incomplete in many cases, but the interrogators had written evidence, documents. In perfectly good faith, I agreed with the interrogator because since they had documents in their hands, they had to be better informed about the facts than I who had to rely on my imperfect memory. I don't think it is fair and I could not imagine that the interrogators would deceive me into making incorrect statements as was done. There is no question of any deliberately untrue statements. I could tell in detail whenever incorrect words are used, incorrect sentences or when something was thrown out of its context or where conclusions were drawn that I never expressed, I must explain this.

Q Witness, you have now stated your fundamental attitude toward this affidavit which was signed on that occasion, and I ask you to

express yourself in the individual points where there are inaccuracies.

A Yes.

Q I can now turn to the next point in my case, namely regarding Victor Brack's attitude toward the Jews in the preparation for the extermination of whom he is alleged to have participated. Mr. Brack, what was your attitude toward the Jews?

A Precisely in view of the charge that I participated in the preparations for the extermination, I must state in the beginning that I never had any hatred of the Jews, neither against any individual or against Jewry as a whole. I rejected the bad ones and approved of the good ones perhaps to a higher degree than is customary some places in the world.

Q Did you have personal friends among the Jews?

A Of course I always had contact and I had some personal friendship with Jews. An old school friend of mine lived at our house and he was at our house almost every day until he went back to South America to his relatives.

Then there was another one with whom I was friendly, even after I had finished my studies, and I knew some half-Jews who were sometimes at my parents house; sometimes at our ski-hut, and even as a party member when I followed the program of the NSDAP for social reasons, and even approved the anti-Semitic paragraph of this program. It is better to add to the program that I continued to associate with the Jewish people who were my friends and remained my friends.

Q One moment.

DR. FROESCHMANN: Mr. President, in this connection I should like to submit a document from my supplementary volume as No. 140. This will be Brack's Exhibit No. 5, an affidavit by his brother, Eric Brack, of 17 April 1947, signed by Eric Brack, certified to by myself on the same day, and I should like to bring your attention in this connection to paragraphs one and two. I need not read this, and I ask the Tribunal to take notice of it.

BY DR. FROESCHMANN:

Q Now, witness, please continue and give me the names of a few people who can corroborate through affidavits what you have just said?

A You have just submitted an affidavit by my own brother, who can give the names of some of our friends. Then I would like to name my friend Hans Ollendorf, who was a three-quarter Jew according to the National Socialist ideas, who is one of the friends of mine, even today, who has also submitted an affidavit.

DR. FROESCHMANN: Mr. President, I put in now as Exhibit No. 6 Document No. 9, page 26, from my Document Book No. I, an affidavit by Dr. Hans Ollendorf. I have

already asked the Tribunal regarding this affidavit, which is not in exactly the form the Tribunal wishes, nevertheless, it is an affidavit which should be admitted because it is made in South America, and the Tribunal has told me that it would be acceptable.

THE PRESIDENT: When did you say informed you, counsel, that the affidavit would be accepted in its form? Did you say the Tribunal informed you?

DR. FROESCHMANN: Mr. President. On 19 February I applied in writing to the Tribunal that Dr. Hans Ollendorf and Gerhard Ollendorf had only on 5 October 1946 sent me enclosed affidavit. I stated that the originals were in my possession. That both gentlemen live in South America, and that the two men had assumed at the time that Victor Brack was not before an American Military Tribunal, but before a German denazification Court. Therefore, on the basis of the ruling of the court of 27 January 1947, I requested as the matter that these two affidavits be admitted in evidence exceptionally in the form in which they exist, and should be included in my document book, and, thereupon, on 6 March I received this letter from the Secretary-General, which I now show to the Prosecution, according to which the affidavits are admissible. I, of course, assumed that this ruling was something that originated with the Tribunal.

THE PRESIDENT: What is the document that counsel has stated?

MR. HOCHMILLER: May I hand the document to the Tribunal.

THE PRESIDENT: It may very likely be that this affidavit may be received as stated in lieu of the note.

DR. FROESCHMANN: I now show the Tribunal Document No. 9, Brack's Exhibit No. 6.

THE PRESIDENT: Just a moment, counsel, until we decide. This document from the Secretary-General says that the Tribunal approved permission on behalf of counsel for the defendant Brack to offer the documents. That does not say and that is not in regard to saying they would be admitted. That permission to counsel is given to offer them in evidence, but it would not be an admission. The Tribunal could make no ruling that the documents were admissible in evidence actually until the matter was considered. I know, however, that here the affidavit says that the following affidavit is to be presented before the denazification board, and that false statements in the affidavits are punished severely, and, therefore, declared the following on oath. I don't know. Has counsel for the Prosecution any objection to the admission of this document?

MR. HOCHMILLER: According to the ruling of the Tribunal this document is not executed in the proper form, so the Prosecution, of course, objects to the offer of this document.

THE PRESIDENT: The original of the document contains some certification in Spanish, which is under the name of DeReed, or something. If some one would interpret the certificate for the benefit of the Tribunal, it might be of assistance.

DR. FROESCHMANN: May I point out to Your Honor that the translation is also there, the German translation of the original Spanish document.

THE PRESIDENT: The certification by some officer who witnessed the signature, have that translated.

DR. FROESCHMANN: This affidavit was originally in Spanish. Then at that time I had made a German translation and had it interpreted into my document book. Now there must be a translation of this into English in the English

Document Book, that is, Exhibit 6, No. 9.

MR. HOCHMULD: Your Honor, I just have been informed by counsel for the defense that the original of the document is in Spanish and not in German. Moreover, I do not see any certification that this is a true and correct translation from Spanish into German. But it is not into German and I have no idea who translated this document into German. It is translated, I see, from German into English, but there is no certification whatsoever who made the translation from the Spanish into German. Now I would like to see a certification that any person who made this translation is entitled to do so.

THE PRESIDENT: Yes, that is correct, counsel is correct in that the document book contains nothing concerning the translation of the document from Portuguese or Spanish into German. It is now time for recess, and I would suggest this matter be discussed and considered between now and tomorrow morning, and that counsel also consider the question of the competency of the first paragraph of the affidavit, and the effect of it might well be considered, to be made in lieu of this, which may be considered by the Prosecution.

MR. HOCHMULD: Yes.

THE PRESIDENT: The Tribunal will recess until 9:30 tomorrow morning.

(Whereupon the Tribunal adjourned until 13 May 1947
at 0930 hours.)

1947
13 May-47-JF-1-1-Foster (Int. Brown)
Court I

OFFICIAL TRANSCRIPT OF THE AMERICAN MILITARY
TRIBUNAL in the matter of the United States
of America against Karl Brandt, et al,
defendants, sitting at Nurnberg, Germany,
on 13 May 1947, 0930, Justice Seals presiding.

THE MARSHAL: Persons in the court room will please find their
seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States
of America and this Honorable Tribunal.

There will be order in the court room.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are
all present in court.

THE MARSHAL: May it please your honor, all the defendants are
present in court with the exception of the Defendant Schaefer who
was excused by the Tribunal yesterday.

THE PRESIDENT: The secretary-General will note for the record
the presence of all the defendants in court save the Defendant
Schaefer who is excused by the Tribunal for the purpose of consulting
with his counsel.

Counsel may proceed.

VIKTOR BRACK - Resumed.

MR. HARDY: May it please your honor, defense counsel for the
defendant Brack introduced Brack Document No. 9 and marked it as
Exhibit No. 6 in yesterday's afternoon session. The prosecution raised
objection to the admission of the document into evidence due to the
fact that the document was executed in Brazil and apparently the
original is in Spanish, which has been translated into German and is
not the document on page 25 and 26. It appears here in English.

In as much as the document is only as to the character of the
defendant Brack, the prosecution withdraws its objection, however,
without prejudice to the right of the prosecution to object to do-
cuments of this nature in the future, inasmuch as it does not comply

with the regulations of the Tribunal. The prosecution agrees to stipulate and admit this document, if defense counsel will in turn stipulate that they will not read it into the record.

In addition to that, Your Honor, I have another point to bring up. During the course of the discussion of the Tribunal and defense counsel regarding the submitting of briefs before this Tribunal, it seems as if there was a misunderstanding of that conference wherein I explained I would make an attempt to make available closing briefs, of the prosecution before the International Military Tribunal for the defense counsel to study so that they will understand the method the Tribunal wishes to invoke here. I have one complete set of briefs in my own file and I will hand those over to defense counsel. Defense counsel apparently misunderstood and thought I was going to submit 19 briefs in the case of Ribbentrop. Well 19 separate copies are not available. I merely have one set and have made those available, and if I gave the impression that I intended to submit more than that, I must withdraw it now because that is the only copies I have available for the defense counsel.

MR. PRESIDENT: In regard to the last statement by the prosecution concerning the briefs which were filed with the Secretary-General in connection with the International Tribunal, counsel present have heard the statement of the prosecution to the effect that he has made available to the defense counsel the only copy of this brief which he has, that, therefore, the defense counsel will in turn have to examine that brief. For my part, I did not understand counsel for the prosecution to say that he would furnish 19 copies of the brief, but at any event, that is all that it is possible to furnish.

MR. HARDY: I have, Your Honor, furnished them with one copy of the closing brief of each defendant before the International Military Tribunal.

MR. PRESIDENT: The prosecution has therefore done all that it is possible in order to aid defense counsel by allowing them to study the

form of the brief such as the Tribunal desires. Did counsel for the Defendant Brack hear the statement of counsel in connection with Brack Document No. 9?

DR. FROESCHMANN (Counsel for the Defendant Brack): I have heard what the prosecutor said and am willing to dispense with reading that affidavit in such a form as to have it read into the record.

MR. HARDY: Your Honor, in addition to that, defense counsel has two other documents, I believe, of a like character to this document. I am willing to stipulate the same conditions for those two documents.

THE PRESIDENT: In view of the statement of counsel, Brack Document No. 9 offered as Brack Exhibit 6 will be received in evidence and filed as an exhibit. This ruling of the Tribunal is without prejudice to the right of the prosecution to object to other documents which fail to comply with the rules laid down by the Tribunal, and the counsel is free to object, and the Tribunal is free to reject other documents. As this ruling will constitute for precedent for the future, it will not be binding upon the prosecution nor the Tribunal, it is not decided as a precedent. With that understanding, those documents will be received in evidence.

Counsel, what are the numbers of the other two documents?
What documents are they?

DR. FROESCHMANN: Document No. 8, Document Book No. 1, on page 24, and affidavit by Joseph Gerhard Ollendorff of 21 October 1946, signed by him, and perhaps I might also put in at this time Document No. 11, document book No. 1, an affidavit by Hans Ollendorff's wife, Mrs. Helma Ollendorff, of 21 March 1947, signed and certified by a notary.

This affidavit certifies the correctness of the signatures of her husband and father. Now, document No. 8 will be Exhibit Brack No. 7, and 11 of Book I will be Brack Exhibit No. 8.

THE PRESIDENT: The documents will be received with the

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understanding announced by the Tribunal. They will not be read but will be made part of the record before the Tribunal and will be considered for what probative value they have.

DR. FROLSCHMANN: May I continue my case, your Honor?

THE PRESIDENT: Just a moment, counsel, until we mark our document. -

Counsel may proceed.

VIKTOR BRACK -- Resumed.

DIRECT EXAMINATION (Continued)

BY DR. FROESCHMANN:

Q witness, I remind you again that you are still under oath.

Witness, at the conclusion of the afternoon's session we were examining whether and to what extent you in the period between 1921 and 1933, i.e., the date of your entering political life, had personal relations with Jews. We stopped when discussing Messrs. Ollendorff, whose affidavit became the subject of some discussion. Did you continue such friendships, e.g., with Ollendorff, after 1933, too?

A Yes, I am still friendly in the same way with Ollendorff as I was previously. I did not construe the Party anti-Semitism the way Himmler, Bormann and Heydrich did, otherwise I would not have continued these friendships.

Q Now, it was your view that this anti-Semitism, which you just mentioned, despite and after the seizure of power, would gradually take on a more quiet form?

A Yes, that was my opinion because I saw in the anti-Semitism that the Party preached something of a propagandistic nature and believed it would soon be tempered. I was supported in this view by the various cases in which Bouhler was successful when reporting to Hitler on behalf of Jews, half-Jews, persons of mixed blood, etc. These efforts on Bouhler's part were directed toward helping Jews and persons of mixed blood not only in the Party itself but in the Wehrmacht and in civil service.

Q Now, witness, in the course of time, as a party member, you became familiar with party's attitude toward the Jews; did this not make you doubt the correctness of your views?

A These doubts only arose later. I knew what the Party view toward the Jew was. I considered it just that the Jews' influence should be limited in a certain way and to a certain extent. The fact that Jews had achieved much power as they had struck me as a similar situation to the

power the nobility had during the influence of the Kaiser. In the Kaiser's Germany the nobility did actually occupy all the influential positions and I found this to be unjust just as I consider the autocracy of any one class unjustifiable. I had toward the Jews no other attitude than the one that I had toward the nobility. We spoke only in terms of "Numerus Clausus" and I considered that justifiable.

Q It did however become known that certain violent propagandists attempted considerable influence, I recall men like Streicher and his newspaper "Der Stuermer;" what was your attitude toward these excesses?

A This exaggerated a wild semitism I always repudiated, Bouhler did the same and I can remember that Bouhler made the effort and was nearly successful in having "Der Stuermer" prohibited altogether. He regarded it as a destructive newspaper without culture and a detriment to the welfare of the country.

Q Did you support Nurnberg in the struggle against Martin?

A Yes, we did.

Q Now, after the issuing of the Nurnberg laws, the question of anti-semitism became more crucial?

A Of course, after these laws were passed I saw that the leadership of the country was set on eliminating the Jews from all influential positions in Germany. Within the free economy, I saw so many opportunities and possibilities for the Jews to earn a living that at first I had no misgivings, to my own office, Amt II, in the Fuehrer's Chancellery all complaints emanating from Jews and half-Jews were worked on. I have already said just what they were concerned with, these were complaints about political excesses and all sorts of other requests. I have already said that Bouhler frequently had success here.

Q Mr. Brack, I don't want it to be thought that it is only at this moment at this trial that you discovered how enthusiastic an anti-Semite you are. Let me ask you on your oath in conclusion if in your activities in the Fuehrer's Chancellery, with no regard for political

or material gain, you used your influence in favor of the people concerned and particularly in affairs that concerned Jews?

A Yes, that is correct.

Q Did you not on the other hand have the opportunity precisely in your activities in the Fuehrer's Chancellery to work on requests from Jews and to take a negative attitude toward them if that had been your persuasion?

A Not only would I have the opportunity, but actually that was my duty, but I could not reconcile myself to these policies.

Q Then you actually did the opposite from what the Party doctrines requested?

A Yes.

Q Now, we get to the year of 1938 and to the program of the 10th of November. What influence did that event have on you?

A This event surprised me enormously. It appeared to me not only evil, but also stupid and false. A friend of mine, the director of the Hamburg World Economic Institute, I asked to tell me what the reaction was in foreign countries, to this he made a collection of more than 600 excerpts from newspapers, which I gave to the Reichsleiter, and I also sent a copy to Himmler and to the then Minister Frank.

Q Did this ever arouse a very specific reaction in you. Let me ask the question differently. In view of these events, did you not want to resign altogether from the Fuehrer's Chancellery?

A Of course I was strongly moved by these events, and it was my intention to resign. Actually I had many other interests than simply doing negative work. My work there was observing that something was going wrong and if something was going wrong, I had to listen to complaints, make out reports and try to straighten things out where other people out of stupidity or malice made something go wrong. Now, the only way to do that is to request assistance from other offices and after a while that becomes arduous.

Q But I want to know if the events of the 10th of November 1938 did not have some specific influence or effect on you; did you not at that time draw a plan or viewpoint?

A Yes, I did. It was at that time I struck up various connections with private industry and received certain assurances from representatives of industry.

Q From 1933 to 1942, in your activities in the Fuehrer's Chancellery, in many cases you used your influence in favor of Jews and half-Jews; did you on those occasions simply have the interest of the individual Jews in your mind or were you moved by some larger principle?

A First of all, I was concerned primarily with the interest of the individual, but as more frequent and more applications of one kind came in, I saw that a struggle was underway here against an entire segment of the people and I did not consider this struggle to be a good one. The achievements of men like Mendelssohn, or Heine or Dr. Ehrlich I was always acutely aware of and I asked myself why should humanity deprive itself voluntarily of the work and help of such men as these. In recognizing these men and in the entire human evaluation of them and their tradition, I had to repudiate such a policy of hate, and that is what happened.

Q And then later when you heard of the actual policy of extermination of Jews, what was your attitude then?

A There was no other reaction but the effort if possible to help.

Q Were you dumb founded at first?

A Of course I was.

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You never however in your own interests failed to help a Jew who applied for help? Rather you accepted any request that came to you and did not consider your own interests, is that so?

A Yes.

Q That concludes my discussion of your attitude toward the Jews and now I turn to your attitude toward National Socialism. Please tell the Tribunal what you did between 1929 and 1933 for the Nazi Party?

A From 1929, on I worked for National Socialism. Its program contained a great deal that could be of value for Germany, and at that time I saw in National Socialism the only possibility of saving the country from economic distress and unemployment.

Q Were you what might be known as a typical National Socialist?

A Certainly not. I was always a National Socialist with reservations. That is the only way I can put it, because attacks on personal freedom, press, censorship and so forth, were contrary to my convictions. These things, I thought were either a basis for misunderstanding National Socialism as a whole or they were deviation of National Socialism into a false channel.

Q Did you concern yourself with the Fuehrer principle?

A First of all I didn't understand it at all. Later when the words "Fuehrer principle" was used more frequently, I did concern myself with it, but I did not see right away that this Fuehrer Principle, unless it had some correctives, was not a permanently tenable form of State Government. I was deceived by the successes or by the success that National Socialism had in economic fields, and partly in the field of foreign affairs, and that is why I didn't understand this at first.

Q Did you later understand it?

A I only understood this very late, in my pretty simple way of thinking I saw this not as a reason for criticism but as a reason to give aid and to try to repair this ill. I was an employee of the Party but certainly not a fanatical representative of its interests.

Q Did you follow these principles in doing your work in that office?

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A I have already spoken about this in connection with my attitude toward the Jews. I followed the same policy, of course, in the conduct of the rest of my office work. I also observed these principles in my private life. In the education of my children; my wife left the NS Frauenschaft in 1936, and I did not belong to any of the various Party organizations, the DAF, the NSV, which one should really belong to and which one was always pressed to join. The Party seemed to me to be a means toward an end. I saw this end at the salvation of Germany from distress unemployment. Innerpolitical unity was necessary to achieve this and the Party struck me as the correct means toward that end.

Q Now, let's turn to the year 1942, the year in which you left the Fuehrer Chancellery. What was your attitude in 1942 toward National Socialism? Did you still believe that the Wehrmacht would win the war or did you have some doubt about this?

A In 1942, I was sure that the Wehrmacht would win the war, but I hoped that after the victory there would be a change in Hitler's heart and in the leading personalities to do something better. I believed that there were many forces and men still in existence who had reserved decency and idealism in themselves. Only now, as time went on, I came to see that this was erroneous.

Q What about Stalingrad?

A After Stalingrad I saw that a clear cut victory for Germany was not possible any longer although I didn't believe that the War was one hundred per cent lost. I believed Germany could still remain to be a political factor in Europe and at the moment of the landing in 1944, this hope, of course, vanished as well.

Q And from then on you saw the situation as definitely hopeless?

A Yes.

Q Now what personal experience occurred during this time that affected your attitude toward National Socialism?

A From this moment on, there began within me that serious spiritual struggle to reconcile myself to National Socialism, that criticism of

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Hitler and the serious mistakes he made and criticism also of my own action, and I spoke about these matters to friends at some length.

Q Did you consider taking an active stand against the Government?

A No, and I must honestly say I would not have been able to join a resistance movement. I was a soldier then and nothing more, and as such I did my duty like a millions of others although with no hope of success.

DR. FROESCHMANN:

Mr. President: in closing this chapter I should like to put in , Exhibit No. 2, from supplement No. 1 to my document book, affidavit by Friedrich Wilhelm Kleinlein of 17 April 1947, on page 4 of the supplementary volume. This is document No. 42 signed by Kleinlein and certified by myself. From September 1942 until September 1944, Kleinlein was the intelligence liaison officer for the foreign office and in this capacity was in a position to talk of many things with Brack. May I read a paragraph from this document, paragraph 3:

"During these discussions past and present measures were freely criticized and in this connection , Brack emphasized to me how wrong he had thought the treatment of the Jews in his time, when they were compelled to emigrate, leaving part of their property behind. He also condemned the Jewish program of 1936."

Mr. President, this concludes also my treatment of Brack's attitude toward National Socialism, and now I turn to the charge of the membership in the SS.

BY DR. FROESCHMANN:

Q Mr. Brack, you are charged with remaining a member of the SS after 1 September, 1939, and thus a member of an organization declared criminal by the I M T. You belonged both to the General SS and to the Waffen SS and were an officer in those two organizations. Please tell the Court how came you to join the General SS in 1928? Describe your career in the SS briefly, your attitude and your experiences, and then take up up the Waffe SS.

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A In 1928 or 1929, I made Himmler's personal acquaintance. My Father at that time had assisted Mrs. Himmler in a difficult child birth and this circumstances brought about closer relations between my Father and Himmler, and thus I too made the acquaintance of Buhler and others who took up relations with my father on Himmler's recommendations.

Q You then joined the General SS under the influence of Himmler?

A In 1929 under Himmler's influence, and I may say on his request I joined the general SS, and that brought with it automatically entry into the party. Then from 1930 to 1931, I served in a SS unit. At the beginning of 1931, I was entrusted with the leadership of a battalion of ten men which was to be made later into a motorized squad. In 1932 I had organized a further unit which was used on special occasions.

Q What was your SS number?

A It was 1940.

Q In 1930, you then received the civilian decoration of the SS, is that so?

A Yes, that is so.

Q What was its number?

A 901. This happened because in the meantime a lot of men in the meantime left the SS, certainly several hundred. Thus I was one of the oldest SS members at that time. This circumstance was, of course, not without its influence on my relation with Himmler. That is how the number dropped from 1940 to 901 - my order number in the SS. Then in 1931 on Himmler's wishes I set up a motorized training unit which was used purely for motor sport purposes and nothing else. And, this unit later had great success in competitions.

Q Mr. President, in this connection I put in as Brack Exhibit 10 Document No. 1, Document Book I, page 1. This is an affidavit by Karl Freiherr Michel von Tuessling, born 27 July 1907, signed by him on 31 March 1947 and certified by the Internment Camp official at Regensburg. From this affidavit I read only the paragraph on page 3 which begins with the words "There can be no question of Brack's having engaged in SS activity in the usual sense during the period from 1933 to 1939".

I should like the Tribunal to take notice of the rest of that paragraph.

Now, in 1934 you moved to Berlin. Did you do service at that time for the General SS?

A No. From 1934 when I moved to Berlin I did no more work for the General SS.

Q Now, what was your activities between 1929 and 1933 in the General SS?

A Before 1933 the Party was active in many meetings and demonstrations. The political opponents of the Party, particularly the Communists, made efforts to disturb these demonstrations and did not hesitate to attack speakers and supporters. It is erroneous to believe that the SS and the SA on their own initiative went through Germany making trouble and attacking defenseless bystanders. If an SS man made use of his fists it was done in self defense. Someone would hit him and say, "Beat him; this is a Nazi" and this was the only way that he could defend himself.

Q Now it was the task of the SS to defend these demonstrations. Is that what you want to say, or did it have a further task beyond that?

A The SS had no further task. That is to be seen by the name SS, which "Schutzstaffel", which a protection guard. It occupied a purely security function within the framework of the Party. From 1929 to 1933, this was the only way I could see this, since the SS rarely, if ever, was used for propaganda purposes during that time. I participated in propaganda activities only twice during that period.

Q Mr. President, as Exhibit 11, I put in now Document 4, page 9, of Document Book, affidavit by Karl Löff, a former General in the Waffen-SS and signed by him on 27 March 1947 and certified by myself. I ask the Tribunal to take notice of it and to read only from it paragraph 2, which reads:

"Brack's and my activities in the general SS was determined by, and filled with, the desire to help the many unemployed compatriots to get work and bread again, and to reinstate Germany to an honorable place in the family of nations. In the General SS, we saw nothing but the Protective Squad (Schutzstaffel) which was to guarantee the security of the leading men, exposed as they were to attacks from political opponents when appearing in public at meetings and mass rallies. To counter such attacks and to keep political events peaceful and orderly was the task of the General SS. We never observed any criminal activities of the SS during the years of our joint service 1931/33."

Witness, what attracted you to the SS particularly, what seemed to you to be its salient characteristics?

A In the SS, I saw an embodiment of the spirit of comradeship and of sacrifice such as one could not find elsewhere at that time. I did not find this spirit in sport clubs or other organizations either to the extent I found it in the SS. In the SS there was a large number of enthusiastic motorists with whom I had common sport interest. Exercising these activities in the SS kept me from doing other work in the SS.

Q Now, did your motoring activity bring you in closer touch with Himmler?

A Yes. From 1930 on often, I served as his chauffeur from that time on. I was frequently with him in the car and in this way I made his acquaintance more closely, got to know his attitude toward many fields of life. Through these conversations with Himmler I detected in him a strong idealism. He expressed, as I say, a strong degree of idealism, to me and I saw him as a man of noble traits of character in whom I felt I could have explicit confidence.

Q Was politics carried on in your circles in the SS?

A In the circles in the SS to which I belonged no politics was carried on at all. We talked about sports and technical matters. Not only for me but for the greater majority of my comrades this was the total extent of our participation in the SS. We had no notion of the general basic policy according to which the SS was being managed.

Q Then you became engaged to get married and you received an OK for this engagement from Himmler. Himmler had reproached you and it was only then you saw that certain norms were laid down according to which an SS man was expected to behave. What was the consequence of this behavior with Himmler?

A As I say, I had not concerned myself with these matters theretofore. But then I became interested in finding out what Himmler had done with the SS, or what his intentions were in the future. And I saw in the meantime Himmler had created a Fuehrer Corps, with an SS badge and I saw that Himmler intended to make a special body of the SS. I heard it called a Guard or an Elite Troop that was to be elevated above the masses. It was his intention to achieve this through careful selection, through stern discipline. In this way he was going to create an organization on which he could rely with certainty in the future.

Q Did you take any part in this inner life of the SS?

A No, I took no further part in this inner life of the SS. From 1934 on I attended no meetings of the SS although I had frequent opportunity. I also refused to be moved to a SS Community although I should have like to have my own house.

Q Now, then, you received the death-head ring from Himmler with the date of the 30th of June, 1934. Now, will you please tell us why you received this decoration because the prosecution charges that in 1934 you received this decoration from Himmler in recognition of your services to the SS?

A This death-head ring, like the dagger and other decorations, was given to members by the Reichsfuehrer if they had belonged to the SS for quite a while even if they hadn't accomplished any particular service. This ring is dated 30 June 1934. However, I recall very definitely that I did not receive it until 1935 and I think it was 1936. I mentioned this during my interrogations. I was told, during my interrogations, that the date was 30 June 1934 and I accepted that statement by the interrogator in good faith because they said they had my SS files available and knew that. I denied it, but later believed this. That is why I signed it in the affidavit, the date 30 June 1934. However, in the meantime, I have been thinking it over and I see that the decoration was given to me much, much later.

Q Now, you are speaking of your second affidavit, are you not?

A Yes.

Q Mr. President, I now put in as Exhibit 12, Document #6, Document Book 1, Page 14, an affidavit by Dr. Werner Best, born 10 July 1903, of 18 February 1947, signed by him and certified by me. Best here concerns himself with the death-head ring its engraving and the date at which it was received corroborates exactly what the defendant Brack has said; so I ask the Tribunal to take notice of this document.

Witness, you just said that you did nothing more in the general SS. However, you remained a member. Now, why didn't you resign if you had no

further interest in the General SS?

A Being a member in the SS made no further difficulties for me. It would have been more logical for me to go to the NSKK because of my interest in sport; but my superior, Reichsleiter Bouhler, was also a member of the SS. Further, I didn't want to arouse any unfavorable attention by leaving the SS and what probably decided me to remain was the fact that by belonging to the SS many things, that were associated with my work in the Fuehrer's Chancellery, could be promoted much better by me if I were a member than if I were not. For this reason, after my transfer to Berlin, I even had myself transferred to the SD from the motor unit of the SS to which I had previously belonged in order that the complaints about the justice, the Gestapo and complaints concerning concentration camp inmates could be better represented by me at the SD, because those complaints made it necessary that we remain in close touch with the officials of the Gestapo.

Q Then, I may sum up by saying that you remained a member of the General SS, for one reason, because you had friends in it from the years 1929 to 1933 and, later, because in your professional career you found it more expedient to remain there to take care of these complaints and appeals that you just mentioned?

A Yes.

Q Now, we have considered your membership in the General SS. Now, briefly, the question of the Waffen-SS. Did you have opportunity in peacetime to observe the activities of Waffen-SS units?

A No. I received my military training with the mountain regiments 98 and 99.

Q Now, why did you join the Waffen-SS instead of the Army?

A That was the result of an accidental acquaintance with a commander of a mountain division of the SS. I applied to the Waffen-SS in April of 1942 for entry into it and requested Bouhler to approve my service on the front. This was given to me at first for six months and was then extended a number of times.

Q Now, what was your opinion of the military activities of the Waffen-SS at that time?

A I regarded the Waffen-SS as an excellent military organization, because its reputation after the French Campaign was good. Its military accomplishments were everywhere acknowledged.

Q When you entered the Waffen-SS, what ranks did you have until you left at the end of the war?

A At first, I was ordnance officer for a division. Later, I was again an ordnance officer with the quartermaster general of a corps. Then, for a time, I was the supply officer of a division, and then I was the quartermaster general of a corps. In August, 1944, my commander was sent to the Carpathians to build up a line of resistance. This proved, however, to be impossible. In October or November, 1944, I became an expert for the Waffen-SS in a combing-out action for soldiers in Denmark. Then, in March, 1945, I became a transport officer in Goering's staff.

Q I submit from supplementary volume #1, Document 43, Exhibit 13, Page 6. I do not have to read anything from this document. I simply ask the Tribunal to take notice of it. Otto Haslreiter drew up this affidavit of 17 April 1947, signed by him, certified by me. I further put in Document #5, Document Book #1, Page 12, Brack Exhibit 14, an affidavit by Herbert Geitner, living in Ambach, who also knows the defendant Brack from that period and describes the activities that Brack himself has just described. He says that he never heard of Brack's being guilty of any inhumane acts and he says further that he considers Brack incapable of committing any act of cruelty. This is signed by Geitner on 31 March 1947, and certified by a notary in Munich. I further put in from Supplemental Volume #1, Document 44, Page 8, Exhibit 15, an affidavit by one Otto Meerpohl, of 17 April 1947, signed by him and certified by me. He describes the nature of the fighting in the war zone in which Brack was then actively engaged. He describes the malicious attacks, etc. I need not go into these matters in detail. However, I ask the Tribunal to take notice of this document. I merely point out that it is his point

of view that, despite the inhumane cruelty on the part of the enemies, the troops were not guilty of such things.

Tell me, Mr. Brack, did you find out of any activities on the part of the troops to which you belonged which were contrary to any regulations, to international treaties or contrary to the laws of humanity?

A I knew of no such activities. I knew, however, that my commanding officers were always against any sort of infractions and issued orders to that effect, to wit, that excesses and infractions should be punished.

Q Now, let me remind the Tribunal again of what I put in as Exhibit #11, the affidavit by Karl Wolff, Document #11, and on page 10 of Document Book #1, here Wolff mentions his meeting with Brack in Berlin in 1942 and then later speaks of his connections with Brack in the Serbian Front. It begins with the words "I met Brack only infrequently during the war."

Now, we have come to the year 1944. In this connection.....

THE PRESIDENT: (Interrupting) Counsel, before proceeding with the examination, the Tribunal will be in recess.

(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

DR. MARX: Dr. Marx for the defendant Dr. Becker-Freyseng. Mr. President, as defense counsel of the defendant, Dr. Becker-Freyseng, I should like to ask that he be permitted leave of the morning and afternoon sessions of tomorrow, Wednesday, because it is necessary for him to have a number of discussions with me in order to prepare his defense.

THE PRESIDENT: On request of counsel for the defendant Becker-Freyseng, the defendant will be excused from attendance before the Tribunal tomorrow, Wednesday, in order to consult with his counsel in connection with his proposed defense. This, of course, is subject to the recall of the defendant if his case should be reached for trial prior to tomorrow morning or afternoon.

DR. MARX: Thank you very much, Your Honor.

THE PRESIDENT: Counsel may proceed.

BY DR. FROESCHTANN:

Q Witness, how was your membership in the SS concluded in the year of 1945?

A After my return from Denmark, Bouhler's had a number of large controversies with Bormann, because Bouhler disapproved of the creation of the Home Guards, as well as the extermination order of Bormann's; for that reason Bouhler approached Goering's staff went with Goering to Obersalzberg. Then together with Goering, Bouhler was sentenced to death, and I was arrested by the SD, when I tried to establish contact with Bouhler at the Obersalzberg, and was incarcerated with Bouhler, and a number of other persons. There we were told that we had been arrested by order of Martin Bormann because of participation in Goering's treason, and that we would be shot. We were brought into the SS barracks at Salzburg the same night, Bouhler told me later the sentence was not executed, because the order had not transmitted correctly. On the evening of 30 April he received the report that Hitler was dead. This I felt freed me of my oath towards Hitler, I mingled with the Army South which came

from Italy, and obtained my release.

DR. FROESCHMANN: Mr. President, in order to prove the assertion which was just made by Mr. Brack, I submit the Document No. 24 from my Document Volume No. I, which is to be found on page 63. This will become Exhibit No. 16. It is an affidavit of Werner Teske, who was born on 7 January 1913. The affidavit was signed on 26 February 1947, and was certified to by me in the proper manner.

I should also like to offer the Document No. 2t, which is also to be found in Document Volume No. 1, on page 65. This will become Brack's Exhibit No. 17. It is an affidavit by Fritz Goernnort, born on 18 March 1907. The affidavit was signed on 7 March 1947, and signed by him. It was again certified to by me.

I should like to ask the Tribunal to take notice of the contents of these two affidavits, which I shall dispense with reading.

BY DR. FROESCHMANN:

Q. Mr. Brack, in conclusion we should like to deal briefly with a number of questions concerning the SS which have arisen from the judgment of the International Military Tribunal and which are important when considering your alleged membership in a criminal organization. I shall put these questions before you very briefly and I should like you to answer them with either "yes" or "no" if possible and only elaborate whenever necessary.

I now ask you: Did you know that the units of the Waffen SS were active participants in the measures which have led to aggressive war?

A. No.

Q. Why did you not believe that, especially after the Sudeten countries, as well as Bohemia, Moravia, and the Memel, had been occupied by the SS units?

A. According to the official publications of the German government we could not deduce that we were there concerned with aggressive acts.

Q. Did you know about the existence of the Hehnlein Free Corps?

A. No, I did not know anything about that.

Q. Did you know that in a number of Waffen SS divisions there were shootings carried out on unarmed prisoners of war and that this was general usage?

A. No, I did not know anything about that either.

Q. And did you have knowledge that SS units were used for the execution of the Germanization plans in the occupied countries and also participated in the deporting of the Jews and foreigners?

A. No.

Q. And finally, did you know that Waffen SS units were to have participated in the murder and mistreatment of the civilians of the occupied territory?

A. No, I did not know that either.

Q. Did you know they participated in the extermination of Jews, politically undesirable persons, and other atrocities?

A. No.

Q. How did you consider the subordination of the SS under the Reich Leadership SS?

A. From my own knowledge I know that the Waffen SS, from the point of view of supplies, was equipped by the SS Operational Main Office. The technical commitments and other equipment were arranged by the army and therefore had nothing to do with the Reichsfuehrer SS.

Q. In that case all the orders for the commitment of the SS originated from the army?

A. Yes, they always did and I, as a supply officer, received all my orders from the army and never from the SS.

Q. Did you know that the concentration camps were under the administration of the SS?

A. Yes, I knew that these camps were under the administration of the SS, but I always thought that the guards of the concentration camps constituted a special body of police. The political leadership of the concentration camps was under the RSHA or, as it was called before, the Gestapo Office.

Q. Did you arrive at that attitude because you knew that Heydrich was at the head of the Gestapo?

A. I arrived at that attitude because of the handling of the applications for release from the concentration camps, which could always be handed over to the Gestapo whenever they arrived at the Fuehrer Chancellery office.

Q. Witness, you already hinted and the witness Hederich was also dealing with that question for some time; you made the acquaintance of released inmates. I now ask you, did you learn from these inmates about any mistreatment in concentration camps?

A. No, I did not. A number of inmates, after their release, came to the Fuehrer's office, but none of them made any concrete statements

about any mistreatment. It was quite impossible even for me to penetrate the cloak which had been spread by Heydrich and others over the real goings-on in the concentration camps; as I realize now, it was quite impossible.

Q. Mr. Brack, but at least you did see some of these inmates after their release. Personally could you not base on the personal impression that these inmates gave you and deduce that you were concerned with people who had been morally or physically burdened because of their long internment?

A. Yes, of course I had to gain that impression in the case of a number of these inmates.

Q. You were also saying that you spoke to these inmates, but you were only able to gain insufficient reports from them, is that right?

A. No, I had no concrete reports from them at all, not even insufficient ones. Everyone of them said I had to sign, I would not communicate to anyone about the internal conditions of the camp, they could not do that.

Q. In that case you are merely confirming what the witness Hilscher has testified here in so moving a manner that we were concerned with persons here who were perhaps wearing a mask, is that right?

A. Yes.

Q. Witness, did you hear anything to the effect that a policy of exploitation was carried out toward these inmates?

A. No.

Q. Did you ever hear about the system of slave labor?

A. No, I did not hear that. Although I knew from the inmates that they were committed for work, at no time, however, did I learn about the form of slave labor as it was actually carried out.

Q. And finally, did you hear anything to the effect that experiments were carried out on concentration camp inmates?

A. No, I heard nothing at all about that.

Q. On the basis of your general impression you have been

explaining to us today concerning the quality of the SS. Could you assume that this highly disciplined organization, as you expressed, then could be used for mass murder?

A. No, no one could imagine that and I certainly did not.

Q. The International Military Tribunal has used a number of points in that connection as a criterion for the criminal nature of the individual SS men and for that reason I should like to ask you the following. Did you hear about the speeches made by Himmler in the year 1943 when he was praising the SS because of their toughness and ruthlessness?

A. No, I did not hear about these speeches.

Q. In the course of this morning's examination we shall come back to that point, but I do want to tell you now that in the year 1941 in January and in April of 1942 you had two personal conferences with Himmler. These conferences permitted you a certain insight into his personal thinking. Now I ask you whether these conferences did not permit the thought that he wanted to use the SS for the execution of such plans as were mentioned in the judgment of the International Military Tribunal.

A. I could not arrive at that conclusion, but on the other hand I assumed that he was planning these things as the head of the German Police. I could not assume that the SS was to be used for such purposes.

Q. In other words, you didn't associate the General SS with the plans of Himmler as far as you got to know them?

A. No, I did that in no way at all.

Q. Didn't your own thinking as an SS man play some part in those impressions?

A. Certainly it did because in my capacity as an SS man I never received any criminal orders.

Q. In conclusion I may state that you did not know anything about the using of the SS for criminal purposes and you neither knew about the useage of the Waffen SS for any such purpose up to the year 1945, is that right?

A. Yes, that is correct.

Q. And now one final question in this connection. Repeatedly and also in this trial mention was made of the so-called SS system, did you ever hear anything about that or did you have any thoughts about it?

A. I have not recognized in any form any existing SS system, and I, therefore, couldn't have any thoughts about it.

Q. Mr. President, that brings me to the conclusion of the point raised by the Prosecution regarding membership in the geueral SS and the Waffen SS and I shall now pass on to the subject of the general activity of the defendant Brack within the chancellory of the Fuehrer. I shall discuss the relationship with Bormann, Himmler and Heydrick, and his attitude toward the concentration camp questions from the years 1934 to 1940, and I shall leave aside the question of euthanasia. I shall try to do it as quickly as possible in order to get to the point of sterilization this afternoon.

Witness, I ask you to avoid repetition of everything that the witness Hederich has mentioned here in a somewhat broad form.

You may perhaps refer to his statements but please try to tell us something new. I repeat that up to the year 1932 you made the acquaintance of the Reichleiter Bouhler only passingly, is that right.

A. Yes, that is true. I only knew him superficially. In the beginning of July 1932 Bouhler offered to me the position of personal adjutant. He held, at that time the position of the Reichs business manager of the NSDAP at that time and I took that offer because I was then unemployed.

Q. Didn't you at that time make contact with Himmler?

A. I saw Himmler after I had been employed at the Brown House almost daily when we had lunch, but our relation didn't go any further than with any other good acquaintance.

Q. Well what was your attitude in general toward Himmler?

A. In general it was pleasant and Himmler certainly realized that I had a positive attitude toward national socialism and that I had a certain amount of personal confidence in him.

Q. Did you also at that time make the acquaintance of Heydrich?

A. Yes, I did make the acquaintance of Heydrich in the year 1933.

Q. And how did you judge him, briefly?

A. He seemed to me to be very suspicious, not open and really from the point of view of feeling I rejected him.

Q. At the Reich Party Rally of 1934 Bouhler received an order from Hitler to hand over the management of the NSDAP and to found a Chancellory of the Fuehrer in Berlin, is that right?

A. Yes, that is true. He asked me to go along with

him because he wanted to have at least one man in this strange environment, whom he knew and in whom he had confidence. The task itself also seemed very difficult to him and I promised him I would help him as far as I could and that I would not leave him, and then I once more returned to Munich because I had married in the meantime, and in that connection I may perhaps say that, without consideration of future criticism, I was married in my SS uniform in Church, all of my children were also members of the Church.

Q. The KAF, which is an abbreviation for the Chancellory of the Fuehrer, Heydrich said was the big chance for Bouhler and he said further that this agency was to be a very active agency for the purpose of adjusting the very many deficiencies which were connected with any utilitarian system. He did not have to deal now with the aims of the Chancellory of the Fuehrer, and I should merely ask the Tribunal to recall my document, which is document No. 14, which was Exhibit 1. This is already in evidence and it describes the aims of the Chancellory of the Fuehrer, as well as the Party Chancellory.

Q. It is true, witness, that there were applications coming in from all the various Gaus to the Party Chancellory and that they concerned all aspects of the Party and the State?

A. Yes, that is correct. Our incoming applications were enormous. Within my personal sphere of work I had to deal with about three to six hundred applications daily.

Q. And as a result of these applications you gained a very lively picture about the political, especially the Party political life and know about the general morale of the population?

A. Yes that is true. Bouhler, however, within the

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frame work of his own tasks was not in a position to remove these deficiencies, which became evident on the basis of these applications. He was perhaps in a position to make corresponding criticism when he came into contact with Hitler and see to it that such deficiencies were removed. He confined himself, however, to settling these difficulties directly with the agencies which were concerned and to keep away these matters from Hitler as far as he could. He thought it to be his task to exercise a coordinated and efficient activity. In this manner the Chancellory of the Fuehrer became an assisting agency for all walks of life and gained a certain popularity as a result. However, political success could not be achieved by that Chancellory of the Fuehrer.

Q And how about your personal activity?

A At first I was sitting in Bouhler's ante-room. My formal title was Chief of Staff, though I was never Chief of Staff in the true sense of that word. I must admit, that I never had the personal ambition to play any political part or to gain any large position. I merely wanted to assist those people whom it was necessary to assist.

Q The period of time during which Bouhler tried to create this chancellery as a coordinating factor in German life passed very quickly. As Hederich already testified certain circles around Hitler very soon realized Bouhler's weakness?

A Yes, that is true, especially Martin Bormann.

Q Martin Bormann?

A Yes. He was the chief of Staff of the Fuehrer's Deputy in that agency and after Hess' elimination in the year of 1941 the Party Chancellery was created. The real head of that agency had always been Bormann since the very beginning in 1933.

Q And Bormann was a hard working man, is that right?

A Yes.

Q He was in a position to grasp things very quickly and was in a position to adjust himself to any kind of circumstance, is that true?

A Yes. As far as I could survey position from my agency Bormann succeeded within a very short time to gather a circle of men around him whom he formed into a strong organization very quickly which was superimposed over the Party and the State and this agency had no adjuting activity but was merely carrying on power politics.

Q Again Hederich told us that Bormann up until the year 1934 was somewhat indifferent to Bouhler but then when the Chancellery of the Fuehrer was founded had of necessity to bring them to a controversy. Is that true?

A Yes, that is correct.

Q Did Bormann take any fields of work away from the Fuehrer's Chancellery, especially in such cases where he saw personal success?

A Yes, that is true.

Q Did you receive insight, perhaps from hearsay, as to what his relationship to Hitler was?

A I really can only judge that from hearsay. But according to what I learned, partly from Bouhler and partly from other people, Bormann was seemingly blindly devoted to Hitler but in reality ruled Hitler.

Q Mention was made here already about the power and radicalism of Martin Bormann. Opposed to that was their policy as pursued by Bouhler, a so-called "soft policy"?

A That is the expression which was used by Bouhler's political opponents, namely that he was pursuing a "soft policy". And that, of course found a ready ear with Bormann. Because of this "soft policy" the original controversy between Bouhler and Bormann became an enmity later and was naturally intensified.

Q In the year 1936 Buehler gave you the leadership of the Dept. II within the Chancellery of the Fuehrer. You accepted that offer?

A Yes.

Q Now would you please tell the Tribunal very briefly what your official position was and in particular whether you had any authority to make any decisions.

A Complaints from all sorts of people from all over Germany arrived at that office. I had just as little authority to make decisions as any of the other departmental heads. I was to prepare complaints, etc. for further handling. I was to raise points, etc., and the final decision rested with Bouhler. I knew Bouhler's basic conception to all these questions and I could, therefore, prepare his decisions for him because I knew how tolerant Bouhler was and I knew what his wishes were and for that reason it was simple for me to prepare such tolerant decisions.

Q How about the result of Bouhler's reports to Hitler?

A The result was extremely favorable. Hitler very often, and

I could almost say most of the time, followed Bouhler's proposals and that, particularly in the field of the Jews and people of mixed blood, he very often adhered to the suggestion proposed by Bouhler. Very seldom were complaints regarding political leaders who had been misusing their office given way to because in those cases Bormann would be called in. In cases like that Bouhler couldn't carry his opinion through and for that reason there was very strong controversy with Bormann.

Q Mr. President in that connection I should like to ask you to accept a number of Documents which all refer to Brack's activity within the Chancellery of the Fuehrer which I shall not read into the record for the purpose of brevity. I should merely like you to take notice of the documents. These are: Document No. 17, Volume I, page 49. This is an affidavit of Gustav Gerhard Quast of Hornbeurg, dated 27 January 1947, signed by Gustav Quast and certified by the Notary Dr. Luedemann. This will become Brack Exhibit 18.

I should further like to submit Document No. 18 which is an affidavit by Dr. Werner Schulemann of Brunswick. This is dated 30 January 1947. It was certified by Notary H. Herdegen and it will become Brack Exhibit 19.

Furthermore, I submit Document No. 21 which is in Document Book I and is the affidavit of Albert Goderbauer dated 13 January 1947. The date 1946 in your copy is incorrect. This was certified on the 19 February 1947. It will become Brack Exhibit No. 20.

Furthermore, I should like to refer to in this connection to the Brack Exhibit No. 10 which is the affidavit of Freiherr von Tuessling which I have already read.

And, finally, I submit the Brack Document No. 16 in Document Book I which is the affidavit of Dr. Hans Greuninger, dated 20 January 1947 and signed by him. It was certified by me and it is to be found on page 42 of the Document Book. I offer it as Exhibit 21. All these affidavits describe Brack's activity and agree in emphasizing the

readiness to help of the defendant and speak of all the efforts which the defendant Brack made in his fight against injustice.

Now, witness, you were Bouhler's oldest collaborator?

A Yes.

Q Could Bormann assume that you too tried to maintain Bouhler's attitude of tolerance or was Bormann of a different opinion?

A No. Bormann must have assumed and he knew me personally from Munich that I was working fully in line with Bouhler and for that reason his criticism was justified. I tried to think in a humane manner and I tried to act in that manner. I wasn't any political accounting machine. I was on a completely different level in the Jewish question as opposed to Bormann. I was opposed to the totalitarian system of the Party. I was against the limitations of personal freedom and Bormann no doubt knew that I was supporting Bouhler with these thoughts.

Q We are now getting to the conferences which you had with Himmler and I should like to ask you, did you often meet Himmler in the years from 1935 to 1940?

A During that time I very rarely met Himmler. We occasionally came into contact and officially only when Bouhler sent me to him to report to him. That in particular when we were concerned with releases from concentration camps. Himmler in most of these cases complied with my attitude and my wishes which were also those of Bouhler despite Heydrich's circumstances and opposition. My relationship to Himmler was in no way particularly close. If it was a little closer there could have developed perhaps a relationship of a fatherly friend but in order to say that I must point out I met him too rarely.

Q And what was your relationship to Heydrich?

A My relationship to Heydrich since the beginning of my activity at Berlin were always unpleasant and tense because the work in the Chancellery of the Fuehrer often extended to fields which were under the supervision of Heydrich. After I had ostentatiously assumed an entirely different attitude and especially in view of political inmates, and since I tried, partly by order of Bouhler and partly on my own initiative, to help these people to their release, Heydrich had to oppose me. Ever since the year of 1937 I had to feel personally threatened.

Q Yes, this was the incident about which Heydrich had reported?

A That's right.

Q Now, very briefly, did Heydrich consider you a man who was committing treason against National Socialism?

A Yes, he threatened me with arrest. He said I was committing treason. He asked Bouhler to release me from my position, and things of that nature.

Q Mr. President, in that connection, I should like to submit a document from Document Book #2, which is #29 on Page 6. An affidavit by Dr. Hans Ehlich of the 7th of February, 1947. It was signed by him and certified by me. I should like to point in particular to Paragraph 2. This will be Brack Exhibit #22. I should furthermore like to offer my Document #39 from Document Volume #2 on Page 60. This is an affidavit of Gertrude Kallmayer, dated the second of April, 1947, which was signed by her and certified by me. This will become Exhibit #23. In both of these documents the attitude of Heydrich towards the defendant Brack is illustrated and also the difficulties in which Brack, at that time, found himself. In that connection I may also remind you of the Document Brack #4, Exhibit #11, which is already in evidence which is to be found on Page 10 of that document where these controversies are also discussed.

Now, Mr. Brack, we repeatedly discussed the nature of the applications which arrived at the Chancellery and I need not deal with that any more; this field of work, these Jewish applications and complaints, etc.

Complaints from Party agencies and dealing with release of protective custody inmates brought you more and more into contact with Heydrich and Bormann, and now, would you please say in that connection what your attitude was concerning the right of the state to intern persons in an internment camp where a danger arose for that person and for general society?

A At that time I resigned myself to the fact of a concentration camp. That was not only true of Germany. In the neighboring state of Austria there was the big concentration camp of Wollersdorf wherein the Austrian state leadership, which was then not National Socialistic, was incarcerating the German National Socialists and National Socialists who were the opponents of that regime. In view of the political situation as it prevailed in Europe at that time I didn't consider that any state had a right to do that, but I resigned myself to the fact of their existence. If, for political reasons, you do place persons into protective custody, you can only, of course, do that under the observance of all human rights and naturally, any such incarceration, can only last as long as is necessary for the protection of the state and, under protective custody, inmates would have to have a possibility to work and earn some money because one has to consider that their families are at home. That is the only conclusion one can arrive at from a ideological point of view. This, however, has nothing to do with any incarceration of preventive custody prisoners, of criminals, but that had nothing to do with our office. We were only dealing with people who were political opponents.

Q Did you always consider it to be a fact that any person's applications with whom you dealt was really opposing the regime?

A On the basis of the statements made by relatives, and on the basis of the various positions taken by the agencies involved, I often saw no reason for the maintenance of that protective custody status, and as time progressed, I grew more and more skeptical towards every protective custody arrest.

Q For that reason did you create a special department within your office?

A Yes, after these applications for release grew more numerous I reported that question to Bouhler and Bouhler ordered that a special department within that office be created for the handling of these matters. It was a very difficult task which had to be dealt with by the head of that department. Every single case had to be evaluated and constituted a number of difficulties. One had to be in touch with the Gestapo and the Gau leadership or whoever initiated the person to be placed in the concentration camp in the first place.

Q Mr. President, in that connection I may submit one exhibit which refers to the treatment of the application of Jewish persons of mixed blood. This the Document #10 to be found in Document Book #1 on page 27. This is the affidavit of Halma Ollendorff. I already mentioned her this morning. It was signed by her on the 14th of March, 1947, and certified by the notary there, Dr. Daimler. I am not going to read that affidavit but it illustrates very strongly the manner in which the defendant Brack, without any consideration to his person and his position had interfered on behalf of her father. This will become Exhibit #22. In connection with the question.....

DR. FROESCHMANN: I beg your pardon, Your Honor, Exhibit #25. In that connection, I am submitting Document.....

THE PRESIDENT: (Interrupting) Counsel, should not this exhibit be #24? Check your list, please.

BY DR. FROESCHMANN:

Q Yes, I must correct myself once more. It should be 24. I beg your pardon.

And now I am going to submit the Document #22 from Document Book #1, Page 59, which is the affidavit of Dr. Ludwig Schmitt, dated the 26th of March, 1947, and signed by him. It was certified by the notary there, Dr. Nobis, on the same day. I should like to read the last sentence from that affidavit because it illustrates the character of the defendant

Brack, and he says, I quote:

"I consider it a fine, courageous and humanitarian act for Brack to repeatedly endeavor to ameliorate my circumstances in the face of danger to himself."

I must remark here that Schmitt had been in a concentration camp for a certain period of time. I quote again:

"It is typical of his desire to help that he immediately gave my assistant, Frl. Dr. Richter, full details of his conversations with Himmler; Bouhler, however, could not be approached anymore and declined to do any more for me. It is my honest desire to state facts to show that Brack at that difficult time showed a humane and decent attitude."

I further submit, in that connection, Brack Document #140. This is to be found in Document Book #2, on page 64, and it will become Exhibit Brack #26. This is an affidavit of a certain Bernhard of Schweinfurt, dated the 5th of April, 1947, signed by him and certified by the notary there, Georg Lang. It will become Brack Exhibit #26. From this affidavit I shall only read the following sentences:

"I am married to a Jewess.

"My mother-in-law, Alice Seligstein, had her last residence in Berlin. Viktor Brack helped me three times in securing a postponement of my mother-in-law's deportation to a concentration camp. She was to be deported in October, 1941 for the first time. At her call for help, I hastened to Berlin in order to save her. All my attempts were unsuccessful. I applied to all possible offices including the Gestapo at the Alexanderplatz. In desperation I telephoned my firm. Mr. Brack was known to my firm. They called him up, recommended me, and asked him to grant my request. When I called on the Chancellery of the Fuehrer, where Brack was working, I was received by his secretary. She apparently had been informed already, and explained to me that Mr. Brack was willing to help. She took me to Mr. Vorberg, who apparently had also been informed. He promised to settle the affair immediately and he wanted to put in a word so that my mother-in-law would be excluded from the transport. I gave the personal

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data of my mother-in-law. After this I called on the Jewish community who confirmed on the following day that my mother-in-law's name had been crossed out in the list of the transport."

The next sentence:

"In view of the assistance which Mr. Brack so unselfishly rendered to my mother-in-law and my family in our greatest need I thought it only just and right to acquaint the court with my experiences with Mr. Brack when I learned some months ago that he was charged as one of the war criminals.

"I have made this statement voluntarily. No one, neither Mr. Brack nor any of Mr. Brack's friends nor anyone else who knows of this affair, induced me to make this statement. It is very well possible that Mr. Brack does not even remember the whole affair or my name."

Q. Mr. Brack, you have already been speaking about the difficulties in which you were when dealing with these applications, on which I have submitted in extracts a number of examples. Do you believe that there were only personal reasons which brought about this difference between Heydrich and yourself, or were the reasons of a deeper nature?

A. As I judge the matter now in retrospect and in the full knowledge of all these crimes, I must come to the conclusion that these were not personal matters, but matters of a fundamental nature. It must have been Heydrich's aim to exterminate all his political opponents in concentration camps. As I said before already, I could find out nothing about that from inmates who had been released. My own position was far too weak and insignificant to let me hope that I could bring about at any time a fundamental change of that situation. I could do nothing but report these matters to the Reichsleiter, or sometimes even to Himmler. At any rate we did try, through the Party Chancellory, to go beyond the applications which arrived at our office and help those who had been arrested. We simply attempted to form groups which we considered to be suitable for release and we submitted such proposals to Bouhler who then in turn discussed it with Himmler. It was in effect achieved that certain categories of persons, former participants in the war, fathers of large families, former members of oppositional parties were released in groups. I remember one figure completely,

because it constituted the very first success of this nature which Bouhler had brought about. On the occasion of Hitler's birthday in the year 1937, 4300 protective custody inmates had actually been released. In the years 1936 to 1941 the figures of those that were released, as a result of those masses released I was speaking about, must, I am sure, have increased to 10,000 or 12,000, if not 15,000. On the basis of the singular applications from the relatives to the Chancellory of the Fuehrer, to Bouhler, to Himmler, etc., at least 3,000 to 5,000 people were released. At that time we were proud of our results. Today, after knowing the enormous extent of the concentration camps, as I can now survey the numbers that were involved, I see how ridiculously low it was, what we achieved at that time. Then, however, I couldn't survey it.

DR. FROESCHMANN: To my regret, Mr. President, I learn that Supplement III is not yet available to the Tribunal. For that reason I must reserve myself the opportunity to submit at a later date a document which constitutes a short excerpt from Kogon's book "The SS State" and which is relevant in this connection. I at that time spoke about the release which was carried out as a result of Hitler's 50th birthday, and that was carried out in Buchenwald.

BY DR. FROESCHMANN:

Q. Mr. Brack, all your activities lead to a number of letters about you which were sent to Bouhler's and also lead to difficulties which were incurable for you, is that right?

A. Yes.

Q. You then tried to enter the sport through intervention of Reich's Sport Leader von Tschammer und Osten?

A. That is true.

Q. Ever since 1937 you were an honorary member also of that organization and carried out sports activities there. Why didn't you carry through that intention?

A. I didn't realize my intention of transferring to sports acti-

vity or industry because at that time the war had broken out. Simultaneously a decree was issued by Hitler which was a prohibition to leave any governmental agencies. Personally I was not satisfied with my work because I had too many difficulties and I saw no basic assistance was possible. The only assistance was in single cases. In the final analysis, however, I believed that I could not release the possibility of helping singular people.

DR. FRGESCHMANN: Mr. President, to sum up I would like to submit at this point Document No. 7, Viktor Brack Document Book No. 1, page 15, which is an affidavit of Irmgard Grube, dated the 4th of February, 1947, which was certified by the notary, Dr. Stephans, and which will become exhibit Brack No. 27. I ask you to take notice of the conditions of this affidavit because it illustrates the entire activity of Brack within the Chancellory of the Fuehrer from 1937 to 1942. This will be Exhibit 27.

This, Your Honor, brings me to the end of the complex regarding Brack's activity within the Chancellory of the Fuehrer and I shall now be in a position to go over to the subject of sterilization. I think this might be a suitable time to adjourn.

THE PRESIDENT: The Tribunal will be in recess until 1:30.

(Thereupon the noon recess was taken.)

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 13 May 1947.)

THE MARSHAL: The Tribunal is again in session.

VICTOR BRACK - Resumed

DR. FROESCHMANN (Counsel for the Defendant Brack):

Mr. President, I previously neglected to put two documents in evidence that concerned the subject last under discussion. These are document number 2. Document Book No. 1, page 5, affidavit by Henning Von Nordeck of 31 March 1947, signed by him and certified by me. In this affidavit I draw your attention particularly to paragraph 3. I do not, however, have to read it. This will be Exhibit 28. The second document that I wish to put in is document 15, Document Book No. 1, page 39, an affidavit by Werner Best dated 25 January 1947, signed by him on that date and certified by myself. Here it is stated specifically that whole groups of inmates were released from concentration camps in what was known as an amnesty. This is Exhibit Brack 29.

DIRECT EXAMINATION (Continued)

BY DR. FROESCHMANN:

Q. Let me remind you again, witness, that you are still testifying under oath. Mr. Brack, this morning we went into your activities in the Fuehrer's Chancellory, so far as was here necessary, and from many affidavits that I have I could ascertain that you were always ready to give assistance in the cares and tribulations of your fellow men, and that, particularly, in many cases you interdeeded in the interests of Jews. Now, an apparent contradiction to this is the chapter which we are about to enter upon, namely the count charging you with War Crimes and Crimes against Humanity, committed in first order through your sterilization proposals to Himmler in the course of 1941 and '42. I ask you now to go into this whole problem at some length.

A. Both the occurrences of November 1938 and the defamation of the Jews, both before the outbreak of the war and during the war, were not unknown to me. But I always hoped that things would gradually quiet down, and, actually, I had nothing to do with these things and could have something to do with them only if someone in search of help applied to the office where I was employed. Any intention to exterminate Jews in 1939 and 1940 was not known to me. If such intentions did exist at that time, I can only say today that the persons who had such intentions were able to keep them completely secret, hiding them behind a heavy veil.

In the summer, however, 1941, something occurred which gave me misgivings. An associate of mine belonged to Bormann's office before he came to the Fuehrer's Chancellory. Despite the tense relations between these two officers, this man still maintained personal connections with people in Bormann's office. Consequently, he knew much more about the ultimate intentions of Bormann's office than I did. One day this associate brought me the news that there was the intention to find a radical solution of the Jewish problem. Just what the solution was to be in detail could not immediately be ascertained by me. I couldn't find out whether the intention was outright extermination. There was talk of sending all the Jews to the East of Europe, primarily to Poland. At the same time, the anti-Semitic attitude on the part of the Polish population was mentioned which was expected to lead to pogroms was also expected.

At any rate, all these things seemed most dubious to me. However, we ourselves, were completely impotent to do anything about it. I, in my Party Office, could not find out anything more about these plans or undertake anything to frustrate them. Nevertheless, simply because our

conscience made us do so, we did decide to try to do something to combat this tendency. After we of the Party Chancellery found out that these plans existed, only Martin Bormann could be the instigator of them. Now, whether that could be traced back to a wish on the part of Hitler or whether it was Bormann's own idea, as the witness Lammers stated, that I cannot say and I do not know even today. But the essential thing for us was that Bormann was concernin_g himself with these matters, and when Bormann concerned himself with something, then things were very dangerous because with his radical point of view we had to count on their being carried out in an altogether ruthless fashion. There was nobody in Germany who could oppose Bormann, Hitler was the only man who could give him orders.

Court 1 case 1

In the tense inimical relation between Bouhler and Bormann, there was simply no question of intervention on Bouhler's part. That simply was to be reckoned with the fact that in some form or another, either in there being deported, or in something worse, the Jews were going to have trouble. If any one had a counter suggestion, it would of course have to be more in a similar direction, but it would be intended to give the Jews a somewhat better chance. This proposal would have to be taken directly to Hitler, because only he was in a position to change Bormann's mind. Others were too weak for that.

Q Now, Mr. Brack, in your affidavit No. 426, Exhibit 160, in this Document Book, 14 page 10, you stated, "We developed the idea of deporting Jews." Will you please say something about that statement of yours?

A First of all, the expression of the word "deporting" was not my word, but it was chosen by the man who drew up the affidavit. I already said what I thought - - or think about this affidavit, and how it came about. I was not aware at that time of the meaning of the word. If I had, I certainly would have refused to use it. At any rate we were thinking of a re-settlement in a decent sense of the word, rather than the deportation.

Q Now what was the political situation at this time?

A In the Summer of 1940 the situation in Europe might be summarized as follows: After the Polish campaign Poland was divided between Soviet Russia and Germany; Belgium and Holland were in German hands, and Denmark and the Netherlands were under German control. There was an Armistice with France and a political rapprochement apparently, Italy was our Ally. There were good relations with Hungary and Yugoslavia, and for an outsider, such as I was, it seemed as if there was no danger from the side of the Soviet Union or from the United States of America. One heard that measures were under way with promises of success with England, and everything seemed to point to the fact that the war would soon be concluded. That is the way the normal mortal appraised the situation at that time.

Court 1 case 1

Q And what attitude then were those countries expected to take towards the Jews at the end of the war?

A It was supposed that after the war many European countries were to adapt themselves to German legislation regarding the Jews. Thus, for all the Jews in Central Europe it would be impossible to develop further, as I said, there was a large scale re-settlement plan, which was to give the Jews a new homeland. This would both have removed Palestine as a bone of contention, and so leave the matter to the thought of settling, or proposing that the Jews be settled in Madagascar. It would not be difficult for France to give up Madagascar in exchange for a previous German Colony, that could be arranged in the peace treaty, but at any rate, such proposal could only be put into effect through Hitler, and if Hitler agreed to such a proposal, then Bormann's intentions would be automatically frustrated.

Q Why just Madagascar?

A Madagascar was mentioned already by Chaim Weizmann, in his Zionist plans. It is an island of 600,000 square kilometers. In other words considerably larger than Germany, and it has only 3,500 inhabitants. It is sparsely settled, and in the opinion of the "GO" Bulletin, it could support roughly a population of twenty million, and the accommodation of eight to ten million European Jews there fore would afford no difficulty. The climate in Madagascar covers the whole range of possible climatic conditions, and resembles the climate that is to be found in Palestine. The natural resources of coal, minerals, oil and so forth, made it likely that a firmly rooted industry could grow there. Moreover there are considerable opportunities for cattle raising. The grasslands are fertile, and what would be needed was an increase of this population in order to make use of these. From the agriculture point of view, all sorts of crops could be grown there, Tobacco, wheat, cotton, etc., and, consequently this country seemed to be very appropriate for the reception of eight to ten million people.

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Court 1 case 1

DR. FROESCHMANN: Mr. President, in this connection I put in Document No. 27 Document Book No, 1 - - No. 2, correction, page 3 Exhibit No. 30, which I have already discussed during my interrogation of the witness Hederich. This is a brief excerpt from the dictionary well known in Germany as "Der grosse Wockhaus."

THE PRESIDENT: Counsel, it was already offered in evidence, and rejected by the Tribunal.

DR. FROESCHMANN: I understood this rejection on the part of the Tribunal to apply only of the offering of this document in connection with the Hederich testimony. I want to put it in explicitly here as evidence, because it substantiates Mr. Brack's testimony here. Am I incorrect in this belief, Mr. President?

THE PRESIDENT: No, I think counsel is correct. Counsel had leave to offer, it, to offer document at some later time, and you offer it now. What does counsel for the Prosecution say?

MR. HOCHWALD: The Prosecution objects against the document as immaterial.

THE PRESIDENT: The Tribunal will admit the document in evidence at this time for probative value it may have.

DR. FROESCHMANN: Then I put this in as Brack's Exhibit No. 30. I shall dispense with the reading of it.

BY DR. FROESCHMANN:

Q. Witness, in other words, the natural qualifications of Madagascar seemed to be good. Now what form of government did you conceive for the Jews who were to go there from Germany and Europe?

A. For a person who is not trained in a government, it is very difficult for him to make a proposal in this matter, so let me point out that, however, our suggestion at that time was made with no claim at all on being correct or complete. At that time we thought that the governmental form would be a government -- a Jewish government under a German Governor; this set form was to end automatically when through the consolidation of the local government and the economic situation that became possible.

Q. There might raise a possible objection here, Mr. Brack. You know that the German "Government" unfortunately has received an unpleasant connotation in Germany in the last few years, because there was a general government -- a Governor General under Frank in Poland, who permitted hundred of thousands of Jews there to be killed. These events on the part of the Governor-General in Poland in 1940, were they known to you?

A. Of those events I certainly knew nothing, and I believe nothing was known among the general population about that.

Q. In your circle where you were concerning yourself with these plans, did you know anything about the personality of the governor, and did it seem to you that this man's character was such as to make it likely that the Jews would receive normal, humane and legal rights?

A. Let me first of all go into the discussion about the government. We thought that the "government" would be necessary because for many years the economic situation of a new State; composed of immigrants would have to be so difficult that it would develop only with the help of a functioning State from the outside. In order to create a new industry, and a new industry, and a new housing, a new transportation,

so forth.

THE PRESIDENT: Counsel, it seems to the Tribunal the witness having said he was not an expert on governmental affairs, and having stated in his opinion that the government to be maintained and set up in Madagascar would be a fair, reasonable and liberal government, the subject has been pursued long enough by the witness.

DR. FROESCHMANN: Very well, Your Honor.

BY DR. FROESCHMANN:

Q. Witness, did you think that such a plan that you have described was to be incorporated into the peace treaty and would be successful?

A. Yes, we hoped that if Bouhler, whom we intended to be the Governor, could create a new homeland for the Jews this would provide hope for all the Jews in the world. The economic connections with Germany offered better opportunities for the peace negotiations and in the future peace these connections would certainly add to the country's security.

Q. Witness, was this thought something that occurred on the spur of the moment or was it based on mutual reflection and careful thought?

THE PRESIDENT: Counsel, I intended to convey to you the idea that the subject of Madagascar and the proposed colony had been gone into sufficiently as to enlighten the Tribunal on the witness' idea. I think that Madagascar can be abandoned and you can go on to the next subject.

BY DR. FROESCHMANN:

Q. Very well Your Honor.

Now, you submitted this plan to Bouhler and Bouhler submitted it in turn to Hitler?

A. Yes.

Q. However in your affidavit, under No. 16, it says: "We put the plan to Bouhler, apparently this plan was not acceptable, so we changed our attitude, etc." Now, I don't quite understand this statement in the affidavit, it does not correspond with what you just testified.

A. We had worked out this plan with great care and given it a great deal of attention, using foreign experts as consultants.

It was not Bouhler who rejected the plan, Bouhler put it before Hitler. Now when I signed this affidavit, I did not see that this statement here in the affidavit was wrong. Bouhler adopted the plan, as is shown, and tried to persuade Hitler to accept it. Hitler, however, turned it down, and Hederich has already testified to that effect here.

Q. Now, let us go a step further, I just mentioned Point 16 in your affidavit, which carries the heading, "Sterilization Program;" What did you mean by that?

A. This heading was not my idea either, but was the thought of the man who drew up the affidavit. If you want to define Himmler's sterilization program, you can if you want. I can clearly say here under oath that I never heard of any such program. I never heard of Madaus' work, or Clauberg's work or that of Pokorny in 1941 or 1942, nor when I signed the affidavit did I know anything. In other words, the expression "Sterilization Program" did not enlighten me at the time or I would have objected to it. It is of course possible that because of my condition at that time I was so exhausted that I could not concentrate on what I was reading there in the affidavit as Point 16 is right at the end of the affidavit.

Q. But you must have some vague recollection of something when you speak of x-ray experiments and such things; you must have known something about those things at that time; now what do you have to say about that?

A. I did have a vague recollection, I heard something or other about x-ray experiments, which were made by some doctor or other, but not in connection with anything like a sterilization program. I believe that Bouhler told me that Hitler had turned this down, but now that we have

looked into it more closely and particularly and since I have seen the documents, I can say that none of that is true.

Q. In other words, you want to say that this statement which you made in this part of the affidavit presents an altogether erroneous picture?

A. It is incomplete, it is out of context and for that reason it is misleading.

Q. Now, Mr. Brack, at the end of 1940 did Himmler write you a letter? Now, this is Document NO-018, Exhibit 404, English Document Book 15 Page 172; do you have that Document Book?

A. Yes.

Q. Please take a look at it - Page 171. Let me quote.....

THE PRESIDENT: We are not getting the translation in the English Document book.

THE MONITOR: He stated it was Document NO-018, Document Book 15 and corrected the error from page 172 to page 171.

BY DR. FROESCHMANN:

Q. May I quote? Himmler writes this document No. 018 to you regarding the conditions in the Euthanasia Station Grafeneck, which had become known to him and he writes:

"SS-Standartenfuehrer Victor Brack,
Staff-Leader at Reich - Leader Bouhler,

Dear Brack, I hear there is great excitement on the Alb because of the institution Grafeneck."

And he says at the bottom:

"May I ask for a report as to how the difficult problem was solved. Heil Hitler! (signed) Heinrich Himmler."

This letter is rather striking because Himmler is ap lying directly to you in the matter that concerns Euthanasia; had you theretofore communicated with Himmler regarding Euthanasia?

A. Yes. Shortly after receiving the Euthanasia assignment Bouhler sent me to Himmler to discuss Euthanasia problems, and I shall come back to this problem later. The reason for this letter from Himmler to me, Document No-018, was a letter that the highest Party judge Buch wrote to Himmler. This letter was put in as No. 002, it is also in Document Book 15, page 37 of the German.

Q. Mr. President, in the English Document book it is Document No-002, it is on page 43 and is Exhibit 392.

Please continue.

A. Now without doubt Himmler recalled my visit at that time and wrote to me with the request that I try to clear up these difficulties. I showed the letter to Bouhler and Bouhler thereupon decided that Grafeneck was no longer to be used as an Euthanasia station and sent me to Himmler to tell him so.

Q. Did you then go to Himmler?

A. In January of 1941 I went to Himmler and told him of Bouhler's decision. At that time, to be sure, I did not know that Himmler on the basis of his racial theory was at that time working on the development of a cheap and effective method of sterilization. That can be seen from document No. 440, Exhibit 14, Document Book 6, which is an affidavit of Rudolf Brandt.

Q. This Document, Mr. President, is No. 440 and is contained in the English Document Book 6, Page 1.

Please continue.

A According to this affidavit Himmler was interested in eliminating the Jews but still keeping their man power. Perhaps at that time he already knew of Bromann's plans and did not wish to affiliate himself with these plans.

Q What plans are you talking about?

A The plans to exterminate the Jews which I told you about before and having known them and having been in the Party Chancellory in the course of this conversation when I told Himmler Grafeneck was to be abandoned, Himmler also told me of communications he had received from Poland, according to which the Jews there were using the temporary impotence of the Polish government to strengthen their own position and Himmler said something had to be done about this. He said something had to be undertaken to stop this because through the mixing of blood in the Polish Jews with that of the Jews from Western Europe a much greater danger for Germany was arising than even before the war, and he said it was his intention to sterilize the Jews according to reliable methods, according to a procedure which would permit mass sterilization. Operative sterilization was out of the question for one thing because you couldn't do that without leaving some scar. Then he brought up the question, could not this be done with x-ray treatment? However, I didn't know about this for sure, and in fact nobody knew about it, and especially didn't know whether the person in question could be treated without noticing something. Himmler then said that Bouhler had gathered together so many scientists and doctors in the euthanasia program, consequently I should try to hear from him what he could tell me about sterilization, and tell him to report to me again.

Q Well, what was the effect of this communication from Himmler on you?

A This made a great impression on me. I believed that Heydrich could have really been the instigator of all of this. In my interrogation I told the Interrogator that I regarded such a plan of exterminating the Jews unworthy of Germany and its leaders. From what I knew of Himmler it would

never have occurred to me that such a destructive idea could have originated in his mind. Be that, however, as it may, whether the idea originated with Heydrich or Bormann, my attitude was opposed to this; and I felt that I was under obligation to do anything I could to prevent this. If I had raised the least objection to it openly I would have aroused great suspicion of myself and would have aroused an all together and false reaction in Himmler. Therefore, I had to make the best of a bad matter and had to pretend that I agreed with Himmler. Therefore, I pretended to be willing to clarify the question of mass sterilization through x-ray methods. Many years ago I had been subjected to x-ray treatment for quite a period of time and had discussed with the doctor the effect of x-rays on the human body. Now I remembered from those discussions that the effect of x-ray on the sexual organs is only of slight importance and are not lasting. Moreover, I know that one of my associates was personally acquainted with a x-ray specialist and he told me that this specialist was conducting experiments on the effects of x-rays on the fertility of animals. However, there seemed to be no result.

Q Mr. President I put in now Document No. 26, from my document book II, page 1, of 25 February 1947, an affidavit by Dr. Martin Zeller, a specialist, born 3 December 1880, living in Munich, signed by him on this same date and certified by myself. This affidavit contributes to the understanding of this matter now under discussion and I quote:

"I remember distinctly that 10 to 15 years ago I spoke to Viktor Brack about x-ray injuries. Brack was worried that he might develop an x-ray injury, at that time his knee had been x-rayed. When some time afterwards he had rough hands he thought that might be an x-ray burn. I explained to him that no injuries could result from our x-ray examinations since the quantities of radiation used for diagnosis were small and besides, the more distant parts of the body (that is, in the case of a picture of the knee being taken, the hands and genitals) were not in the danger zone under modern technical conditions.

Q I also made the remark that even an intentional sterilization by x-ray treatment would, especially in the case of young persons, be difficult to achieve and even then only with a strong dosis of prolonged radiation."

And then in paragraph 2 the witness continues:

"It is quite possible that Brack in this way developed the views as brought forward, i.e., that the effect of x-rays upon the sexual organs is negligible, and that the danger of sterilization does not exist at all. The layman will not differentiate between x-ray diagnostics and x-ray therapy."

This will be Exhibit No. 31. Witness, please continue.

A I took this associate into my confidence and told him of my intention to deceive Himmler, if only to gain time. We agreed to deceive Himmler by giving him a certificate that seemed to say that sterilization by x-ray methods was possible and we would thus get him to pursue a false path. Just what was said in this certificate I do not know any longer. At any rate there were no positive results in it so that we couldn't put it to Himmler in this form.

Q Mr. President, let me remark in this connection, that after great efforts I have succeeded in finding the man who drew up this certificate of which the witness has just been speaking. I have found out his name and address. He lives in the Russian zone and for that reason it was not possible for me to get a copy of that certificate that he drew up at that time. However, I have made contact with this doctor and he has declared his readiness to come to Nurnberg and to give me an affidavit, because as he said it would be a matter of course that he should help an innocent man if his testimony could do so. He does remember having given this certificate to Brack or to his associates and I ask permission to reserve the right to put this affidavit in evidence as soon as I have it, and when perhaps the doctor has had a chance to speak to the witness -- to the defendant.

THE PRESIDENT: Counsel for defendant Brack may offer the affidavit as soon as it is received so long as it complies with the evidence in the case.

DR. FROESCHMANN: Thank you, Your Honor. Witness, please continue.

A Naturally, this factor of uncertainty had to be taken into consideration.

Q What exactly are you speaking of?

A I am talking about the report we received.

Q You mean the man who drew up the certificate, the expert?

A Yes.

THE PRESIDENT: Now counsel I don't want you to misunderstand me. I said Counsel may offer the affidavit, that means it is offered subject to any objection raised by the Prosecution as to the form of the affidavit or its relevancy. Yesterday the affidavits from Brazil were possibly offered by you because the Tribunal had said that they might be offered. The right to offer simply means offered subject to objection and that is not equivalent to saying that the affidavit will be received in evidence, but it may be offered. That is the sense in which I have used the word "offer" in this affidavit.

DR. FROESCHMANN: Yes, Your Honor, I understood the President and I shall only submit an affidavit which is in compliance with the regulation of this Tribunal. Would you please continue, witness?

A My collaborator changed this certificate in its contents in such a manner that sterilization becomes apparent as something possible from a medical point of view. That is exactly what is contained in my affidavit. Thus this letter dated the 28 March 1941, originated with this document No. 203, Exhibit 161.

Q Mr. President, with reference to the Document No. 203, Exhibit 161, you can find it in the English Document Volume VI, page 35. Let us reconstruct this letter quite shortly. I shall quote. Volume VI, page 35, addressed by Brack to Himmler, marked top secret.

"Dear Reichsfuehrer:

"Enclosed I sent to you for your information the report of the examination regarding the possibility of an x-ray sterilization or castration. I ask you to tell me whether anything can be done in the matter either theoretically or practically."

That is the covering letter. This covering letter, Witness, in connection with the report which is attached was considered by the Prosecution as being a serious suggestion for sterilization and Prosecution in that connection has stated that this needed no comment. What is your attitude toward it?

A Neither the first nor the latter is correct. I admit that if one reads this letter or report without knowing the connections that impression can be created. I, therefore, have to attempt to analyze this report in order to explain to the Tribunal what we tried to achieve with this letter. I have to emphasize once more that the entire thing was a maneuver of deceit.

Q With reference to the report which you attached to this letter NO-203 I should like to quote from it a very brief passage. It can be found in Document Volume VI, page 35 and reads:

"Report on Experiments concerning X-ray Castration.

"The experiments in this field are concluded. The following result can be considered as established and adequately based on scientific research.

"If any persons are to be sterilized permanently, this result can only be attained by applying Xrays in a dosage high enough to produce castration with all its consequences, since high X-ray dosages destroy the internal secretion of the ovary, or of the testicles respectively."

Lower dosages would only temporarily paralyze the procreative capacity. The consequences in question are for example the disappearance of menstruation, climacteric phenomena, changes in capillary growth, modification of metabolism, etc. In any case, attention must be drawn to these disadvantages.

"The actual dosage can be given in various ways, and the irradiation can take place quite imperceptibly. The necessary local dosage for men is 500-600 r, for women 300-350 r. In general an irradiation period of 2 minutes for men, 3 minutes for women, with the highest voltage, a thin filter and at a short distance, ought to be sufficient. There is, however a disadvantage that has to be put up with: as it is impossible to cover unnoticeably the rest of the body with lead, the other tissues of the body will be injured, and radiologic malaise, the so-called "Roentgenkater", will ensue."

Witness, would you define your attitude toward this letter which I partly read?

A I was speaking in connection with the talk I had with Himmler in the year of 1941. This becomes apparent from the paragraph "I herewith submit the result of an x-ray examination. It looks now as though in effect experiments had been carried out by scientists, which was not the case. Himmler had to be assured and that is why we had to emphasize that the experiments had been concluded and the result could be based on scientific work. Of course, we couldn't state the result as being absolutely positive. We had to leave it to Himmler himself to judge it. In the first instance it was our intention to remove Himmler's mind from that thought. That is why we chose the formulation which can be seen in that letter - "If any persons are to be sterilized permanently". It went in effect that this was theoretically possible. At the same time however, we pointed out that this success cannot be concealed and that phenomena will arise. That obviously was done by the contents of the certificate itself and it is emphasized that permanent sterilization makes high dosage of x-ray necessary. These high dosages would then

bring about the effects of castration with all of the accompanying symptoms which would be noticed immediately. If, however, lower dosages were used you will have only stopped productive capacity for a short time. We actually said that at the end of the report, namely, that the result of sterilization could be ascertained after a comparatively short time but that it was impossible to achieve the results of bring about sterilization without being noticed, and in this way we thought we could get Himmler to give up that idea.

Q Now, this was the first part of the letter. Now let us discuss the second part. I am again referring to the method which you suggested to Himmler. You thought at that time "One practical way of proceeding would be, for instance, to let the persons to be treated approach a counter, where they could be asked to answer some questions or to fill in forms, which would take them 2 or 3 minutes. The official sitting behind the counter could operate the installation in such a way as to turn a switch which would activate the two valves simultaneously (since the irradiation as to operate from both sides.) With a two-valve installation about 150-200 persons could then be sterilized per day, and therefore, with 20 such installations as many as 3000 - 4000 persons per day. In my estimation a larger daily number could not in any case be sent away for this purpose."

Mr. Brack, how could you arrive at this idea of turning switches. This is completely understandable for a layman.

A Himmler wanted this procedure to be carried out as simply as possible. Therefore, we had to suggest as simple a method as we could think of. On the other hand this method increased the uncertainty of directing the rays to the corresponding parts of the body. That is what was discussed by my collaborator with his acquaintance. We suggested this switch method to Himmler with the idea of making this matter as simple as possible and at the same time to prevent any active x-ray reaching the body.

Furthermore, only 2-3 minutes were suggested as the length of time for these people to be subjected to these x-rays. How we arrived at these 500-600 figures - or 350 r. - I don't know whether they were just invented or whether they were based upon something. I don't know. But looking at it as a whole it contained a number of points that were to demonstrate to Himmler that the whole thing could not be carried out. There is scientific basis for these suggestions.

Q Mr. President, in connection with this point I have tried to get an unobjectionable irrefragable certificate for the correctness of what the defendant just stated. I shall get a certificate from a specialist. The man concerned says that this suggestion is absolutely senseless. I had, however, to wait for this certificate because I had to wait for an affidavit from another expert physician. With the permission of the High Tribunal I shall obtain a corresponding certificate from a radiologist who can make it appear credible that this entire suggestion was really scientific nonsense.

A The possibility for Himmler to accept this proposal in spite of all these difficulties we had to take into account. We know, however, that the preparation of any such installation would take up a long period of time, building, etc. We thought that the war would end very quickly and as I said before I didn't know there was any threat from the West. And, in case of peace the Plan of Madagascar which had already been rejected could once more be placed in the foreground. If on the other hand this suggestion was to be accepted and if at that time the war had not yet ended, the carrying out of this experiment on the 100-200 Jews was much less of an evil than Himmler taking the Jews and sterilizing them en masse or doing something worse to them.

Q Mr. Brack, if I understand you correctly, you're saying that, at that time, you had to make a decision between either killing millions of Jews or choosing the smaller evil by only suggesting this small number which you have mentioned upon whom experiments might be carried out. Is my opinion correct?

A During my interrogations I designated this dilemma in a way by saying that this was our last way out. But, naturally, when judging these two possibilities one must take into consideration that one decides upon one possibility and, at the same time, feels an inner justification for doing so. The same way as a troop commander sacrifices a few thousand people somewhere if he can save a hundred thousand somewhere else.

Q Now, Mr. Brack, in order to conclude this letter I want to say that you have stated the following at the end of that letter, and I quote:

"In summary it may be said that having regard to the present state of radiology technique and research, mass sterilization by means of X-rays can be carried out without difficulty. However, it seems to be impossible to do this in such a way that the persons concerned do not, sooner or later, realize with certainty that they have been sterilized or castrated by X-rays."

In your covering letter you apparently mentioned your second letter, and I quote:

"I request your instructions as to further theoretical or practical steps which are to be taken in this matter."

What is the significance of this latter statement?

A By using this formulation I endeavored to keep control of the development of that matter. I never really counted on the realization of these experiments and I never had any intention to submit a serious proposal to Himmler which would cause the sterilization of millions of Jews, but if Himmler was to accept this nonsensical proposal I wanted

to have a delaying effect on his idea for as long as possible. If this suggestion had been serious on my part I would have had to be a fanatical Jew hater, and I think I have already proved that I was not such a person, and, in that connection, I may emphasize the following: At the same time I sent this letter to Himmler, influential circles made efforts that the Kaiser Wilhelm Institute for cell physiology was to be transferred to an old Party member. At the head of that institute, Professor Dr. Warburg had been placed, who was a half Jew. It was the aim of these circles to obtain the merits of the research work which Warburg had been carrying on - who had incidentally won the Nobel Prize. If I had been a fanatical National Socialist I would have supported this endeavor of these circles. I, however, did exactly the opposite. I helped Warburg and I therefore sustained this institute for Germany and for the world.

Q Mr. President, I am now going to submit the important document # 12, to be found in my document book on page 32 and 33, of Professor Warburg. I want to point out that this affidavit had already been handed to the Family Brack before the beginning of this trial in order to help Brack in the trial which he expected before the de-Nazification board. After the beginning of the trial I turned to Professor Warburg, asking him to change the introduction of that affidavit to fit it for the purposes of the Military Tribunal at Nurnberg. Dr. Warburg corresponded to my request and I shall now read that document and I quote:

"I, Professor Warburg, scientific member of the Kaiser Wilhelm Association since 1914, director of the Kaiser Wilhelm Institute for Cell Physiology since 1931, member of the Royal Society in London, winner of the Nobel Prize

for medicine, herewith give the following affidavit. I have been advised that this affidavit will be submitted to the Military Tribunal I in Nurnberg and that I will be subject to severe penalties if I make false statements.

"The Kaiser Wilhelm Institute for Cell Physiology, the director of which I have been since its foundation, was established and partly supported with funds from the Rockefeller Foundation. Because of this fact, I retained my position until 1941, although I am a half-Jew.

"In 1941 I was dismissed by the Kaiser Wilhelm Association. The then Chief of the Chancellery of the Fuehrer, Philipp Bouhler, learned about my dismissal and ordered his staff leader Viktor Brack to review my case.

"In a few weeks Viktor Brack succeeded in having my dismissal cancelled; in this way he most probably saved my life and for science a medical research institute of world renown working exclusively for peaceful purposes.

"I did this', Brack told me on 21 June 1941, 'not for you or for Germany, but for the world.'

"Considering that Brack did this at a time when racial hatred and war psychosis had reached their climax in Germany, one has to admire the courage with which Brack advanced the cause of tolerance and the peaceful work of science against the basic principles of National Socialism.

"I have read the above affidavit and I have found it to be in all parts correct.

Signed: Professor Otto Warburg."

The authenticity of the certificate is certified by the notary von Lewinski on the 3rd of February 1947.

In addition to that document I also

THE PRESIDENT (Interrupting): Counsel, will you give us an exhibit number for this document?

BY DR. FROESCHMANN:

Q Mr. President, I beg your pardon, this will become Exhibit 32.

In addition to that document I submit Document #13 in my document volume which is the affidavit of Professor Dr. Walter Schoeller residing at Allensbach on the Lake of Constance. This will be Exhibit 33. I quote:

"For many years I was a member of the Kaiser Wilhelm Society and curator of the Kaiser Wilhelm Institute for Cell Physiology which was headed by my friend Professor Warburg. In that capacity I heard from Dr. Telschow, the Director of the Kaiser Wilhelm Society, that the Ministry of Culture has asked the Kaiser Wilhelm Society to dismiss Warburg, as he was 'racially tainted', from his father's side. To prevent this I got into touch with Reichsleiter Bouhler who appeared open to my representations and entrusted his assistant in the Chancellery, Viktor Brack, with the handling of this case. Mr. Brack's efforts were completely successful. The pertinent depositions of Professor Warburg as made in his statement of 5 September 1946 are in every respect in accordance with my recollections."

This statement of 5 September 1946 is the one I mentioned earlier; namely the one Mr. Warburg made available to the Family Brack for the purposes of submission before the de-Nazification board. I sent copies of this affidavit to Professor Schoeller. He goes on:

"I have carefully read the above statement and found it correct in every respect."

Signed and certified by Dr. Carl Haensel under the date of 7th of February, 1947.

Mr. Brack, you have stated on the 28th of March, 1941

that you sent this letter to Himmler. You further stated that if there was no other evidence for the correctness of your statement you would point to the affidavit of Professor Warburg. That is the sense of what you said?

A. Yes.

Q. In order to bring this matter to a conclusion, did you experience any resistance to your efforts in connection with Warburg?

A. Yes, I had considerable difficulties. The Gestapo and Bernann learned about my endeavors on behalf of Warburg. My own collaborators warned me a few times not to bring these matters to an explosion but I did that in spite of all these difficulties and helped Professor Warburg. I was then asked to call on the Gestapo and I was given a warning by Gruppenfuhrer Mueller.

Q. Witness, I must again revert to your affidavit. In this affidavit you make some mention of having made a sterilization suggestion to Hitler. Rather, that you did not send him that suggestion directly, but you discussed that question with your chief, Reichsleiter Bouhler.

A. It may well be that I discussed that matter with Bouhler. In view of the rejection of the Madagascar Plan I am sure that Bouhler would have rejected any such proposal, but I mixed those two things up and I am afraid that my memory wasn't quite clear at that time.

Q. But, Mr. Brack, a document was submitted here, the Document No. 216, Exhibit 170, which is to be found in the German document book 6, page 54, and in the English document volume 6, page 56. This is a file notice of July, 1942. This file notice originates from the defendant Rudolf Brandt and refers to a conference which took place on the 7th of July, 1942, between the Reichsfuhrer SS, SS Brigadefuhrer

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Professor Dr. Gebhardt, Bluecks and Klauberg. You have
the document book before you?

" Yes.

Q. In Paragraph two the name of Professor Dr. Hohlfelder is mentioned who is an X-ray specialist in Germany. He says "It should also be examined, preferably in cooperation with Professor Dr. Hohlfelder, an X-ray specialist in Germany, in what way sterilization of men could be achieved by X-ray treatment." Tell us who was Dr. Hohlfelder?

A. Hohlfelder was the head of the SS X-ray Unit.

Q. What do you mean by SS X-ray Unit?

A. The X-ray Unit was an institution of the SS and of Himmler. It had existed long before the War. It was committed to carry out investigations in areas which were subject to tuberculosis. A method had been found partly through Hohlfelder which made it possible for X-ray investigation to be carried out with a normal film. Such units were then established and were going through the country.

Q. But you know that from before 1941?

A. Yes, I think that took place in 1937 or 1938.

Q. Did you ever speak to Hohlfelder?

A. No, I didn't know Hohlfelder and I never talked to him.

Q. Witness, reading that document one would arrive at the thought that Himmler was consulting these X-ray specialists because he didn't quite consider your suggestion feasible which had preceded that letter; can that be possible?

A. Yes, that is possible, but in no way can be contest with that my good intention which I had when making that proposal. That of course you cannot remove. At first I received no report from Himmler's staff at all which let me conclude that he was continuing with his sterilization intentions. I was completely calm thinking that I had achieved my purpose and had deviated Himmler's mind from this sterilization idea. The Document NO 204, the reply letter from Himmler to me came to me only after a period of more than two months.

DR. FROESCHMANN: Mr. President, the Document NO 204 can be found in the English Document Book Volume 6, page 38, and in the

German Document Book Volume 6, page 37. I may quote this short document in order to clarify matters:

"Top Secret"

addressed to "Oberstdienstleiter Viktor Brack,

Berlin W8

Voss Strasse 4,

"A little while before his departure to Greece by plane the Reichsfuehrer-SS gave me the order to thank you very much for your report about the X-ray castration experiments forwarded to us with your letter of 28 March 1941. He has read the report with interest and will discuss this question with you at the first opportunity."

What did you conclude from this letter?

A. This letter proves to me Himmler's interest. It contains no rejection, but made the pursuance of the entire matter dependent upon another discussion. This discussion, however, did not come about, and therewith I thought I had won a considerable period of time, and that Himmler would not continue with this idea.

Q. Did you speak to Himmler some other time in the year 1941?

A. Yes, I once more dealt with Himmler in 1941 in connection with the case of Dr. Ludwig Schmitt, whose affidavit was submitted this morning.

Q. I merely wanted to ascertain whether you had any more dealings with Himmler in the year 1941. What kind of reaction did you feel in the case of Schmitt about whom you were speaking? One moment---

DR. FROESCHMANN: Mr. President, may I remind the Tribunal of the exhibit 25, which I have submitted this morning, which is the affidavit of Dr. Ludwig Schmitt, the most part of which I have already read. From this affidavit I shall only quote another two short paragraphs. This is in the German Document Book 2, page 59. I am sorry Document Book 1, page 59, to Schmitt. It says here:

"I was first arrested for a short period in November 1933 and again on 21 April 1934 when I was detained for 1-1/2 years. I was

arrested for political reasons at the personal instigation of Heydrich. I had helped about 18 persecuted anti-fascists over the border. Among these were: The well known socialist Sternberg from Berlin, Bert Brecht's female assistant and Brecht's child, Otto Strasser and his friends.

"It was Brack's opinion -- as he later frankly admitted that, though he was a national socialist himself, he did not expect every German to have the same political views. It should be the right of every German to leave Germany and to adopt another country, if he disapproved the national socialist regime. If I helped these Germans to escape, my action was prompted by idealistic motives and should not be punished by the Nazi state. That is why he fully understood my action and did not hesitate to intervene on my behalf."

And then, Witness, it continues:

"In 1941 I was arrested for the third time, again for political reasons. Brack again then personally drafted together with Buehler a petition to Himmler and kept my relatives informed about the position. He accompanied Buehler to Himmler, and another time he called on Himmler alone in order to obtain my release. However, Himmler refused my release and declared that I would have to remain in the concentration camp for the rest of my life. Himmler also prevented all further efforts concerning myself with Hitler and warned both Buehler and Brack not to undertake any further action on my behalf."

This is the matter of Dr. Ludwig Schmitt.

A. Yes.

Q. What reaction did you feel because of this fact?

A. This brought about an even stronger rejection of Himmler's attitude. I couldn't understand it. For many years I considered him to have a decent character and now suddenly I found that I had been wrong. All the human trends which he had demonstrated up to that point were suddenly lost. I assume that Heydrich's hand was apparent behind these matters, but of course I also erred in my opinion about

Himmler. Simultaneously I think also in the summer of 1942 some other case arose in connection with some release from the concentration camp. Buhler had endeavored that a former officer of the Wehrmacht be released from the concentration camp and shortly before this granted release he died under suspicious circumstances in the concentration camp. There were good reasons for suspicion. He had been visited and seen by some members of his family in a completely healthy state, and I think that he had died within two days. Buhler discussed that matter with Himmler, all of which brought me to despair of Himmler's attitude.

Q. Then you did have doubts about Himmler's mentality, but you didn't quite see through it yet, did you?

A. Well, I had believed in that man for too long a period of time. I thought that everything originated from Heydrich, and I thought that Heydrich was deceiving Himmler, but then for the first time I became doubtful about Himmler himself.

Q. Did you ever hear that Himmler was pursued for sterilization intentions and in particular did you hear anything to the effect that your letter which we had mentioned in detail before, had been submitted to Pohl, the Obergruppenfuhrer Pohl?

A. I neither received knowledge of the fact that Himmler was pursuing the sterilization intentions, nor did I know that this letter had been submitted to Heydrich, not Pohl. I only reconstructed that from the documents which I have seen here.

Q. Now, Mr. Brack, you know that it is the Prosecution's position that you didn't only participate in the extermination of Jewry by writing this letter alone, but that you sent a further letter to Himmler in 1942; in this connection in particular you are brought in connection with a very infamous name, Globochik; would you please inform the Tribunal when and under what circumstances you made Globochik's acquaintance?

Beginning with September I accompanied Bouhler on a ride to the former Governor-General Frank. We then met Globocnik and I made his acquaintance at that time.

Q What was the subject of your conversation with Globocnik?

A I did not have any conversation with him at all. I just listened to what he said to Bouhler. Globocnik told Bouhler about his entire work in Poland; about his special assignment according to which the people who had been removed from Germany were committed for work in Poland. Furthermore, he said that factories were to be instituted in the Ukraine with similar installations as in the concentration camp of Dachau, which were to be instituted by the governor-general.

Q Did Globocnik give you an opportunity to view and inspect this work which was being created?

A I went to one of these works accompanied by the Reichsleiter, where a number of things were produced. Part of the workers were housed in barracks, and part of them in town, some had been residing there, and some had been re-settled. So far as I can remember, they were producing shoes, motor cars, small furniture, and there were some tailor shops. These other things I still remember. I am sure that there were a few thousand Jews there who were working there. In this rather great factory I saw nothing about any torture, or anything like that. The physical condition was good, and they seemed to be nourished properly.

Q Now, Mr. Brack, did Globocnik at that time tell you about the exploitation of labor - of the Jewish labor, which was intended by Pohl?

A No. There was no mention made of any exploitation. There was only mention made of proper commitment of that labor.

Q In that case you saw --

A What I saw was absolutely positive creative work.

Q It was no concentration camp, was it?

A No. It was a big work compound. There were no barbed wires,

or anything like that. It looked just like any other large factory.

Q Did you on this opportunity notice anything of any installations which could serve as any extermination of Jews? Did you see any gas chambers, or anything like that. Did you possibly hear something of such chambers from Globochnik, or somebody else?

A No, neither did I hear of anything like that, nor did I see anything which attracted my particular attention. It was my impression that this was an absolutely normal factory compound.

Q When was that again?

A It was in the Fall of 1941. I think the beginning of September 1941.

Q Now in the late Fall of 1941 you left for a considerable period of time, and that at the end of October 1941 you came back from your leave, is that true?

A Yes.

Q During that time a certain decision arose within you, as you have told me, which matured, may I put it that way?

A I wanted to volunteer for the front. I wanted to join the Army, because I did not like the entire political development. So far as I could judge, Hitler's aims became more and more radical. I personally was watched by the chief of the Gestapo. I was warned by him and Himmler warned me because of my interference in the case of Schmitt, and there were many similar measures so that I saw no longer any possibility for positive work to be done on by me. When voicing this intention I found intensive resistance on the part of many of my friends. They said if I left my post, there would be nobody left to whom one could turn in case of political difficulties, and who, disregarding any personal agency, was always ready and willing to help, even political opponents.

Q Mr. Brack, may I catch up with something I forgot a little while ago. You were saying that Globochnik had been talking about a special assignment?

A Yes, a few special assignments.

Q You know that the expression "special assignment" has gained a very unpleasant meaning during the trial here in Nurnberg, because one even likes to understand by "special assignment" special treatment, and special treatment in that regard seems today to have purely a meaning of liquidation. Now when Globocnik was discussing his special assignment in connection with the commitment of labor consisting of Jews, did you have the idea that it meant extermination?

A No, no idea at all. I heard the expression "special treatment" of this meaning here for the first time.

Q Had you known about this expression "special treatment" from your physical activity?

A No, of course not.

Q Now may I continue where I interrupted before. We now return to the time of the end of October, or the beginning of November, which brings us before Christmas of 1941. What happened Christmas of 1941?

A My intentions of becoming a soldier, and going to the front were assisted by a special assignment from Hitler. The Armament Ministry Todt previously reported to Hitler that the Army alone could not deal with the problem of housing, and winter aid to the troops in Russia during that catastrophe in the winter of 1941, which has been discussed here in detail, and I shall dispense with repeating it in detail. The Fuehrer ordered at that time that my medical institution, that all sanitary institutions would have to help in that matter, and among them was Bouhler's Institution which dealt with euthanasia. I asked Bouhler for permission to take a few buses and some of his personnel, and to participate in this aid action within the framework of the Todt organization. I must state here that in August 1941 euthanasia had been interrupted by order of Hitler, and a large part of the personnel for that reason was released. In spite of that, the personnel was not used, and many of them were in a position to participate in this

aid action. In the Winter of 1941 I went to the East, and in January 1942 a larger group also went to the East for that purpose. That can be seen from a letter written by the witness Menneke to his wife.

Q When did you return from the East, in order to bring this chapter to a conclusion?

A I returned at the beginning of March. The details about my activity there ought to be listed here.

Q Well, then, you returned to Berlin?

A Yes, when I returned to Berlin, my mother died within a few days. Up to that time I had been obliged to look after her, and now that was no longer necessary. I had no personal concerns at home any longer, and, I, therefore, volunteered for the front. Of course, with the approval of Reichsleiter Bouhler. But something happened in the meantime, there was a conversation with Himmler.

DR. FROESCHMANN: Mr. President, I am now coming to the second conversation between Brack and Himmler, which will take up some time, in which Himmler told Brack about his far reaching plan, and perhaps it would be advisable to take a recess now.

THE PRESIDENT: The Tribunal will take recess until 9:30 o'clock tomorrow morning.

(The Tribunal adjourned until 14 May 1947 at 0930 hours).

Official Transcript of the American Military
Tribunal in the matter of the United States
of America against Karl Brandt, et al,
defendants, sitting at Nuernberg, Germany,
on 14 May 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.
The Honorable, the Judges of Military Tribunal I. Military Tribunal I
is now in session. God save the United States of America and this Hon-
orable Tribunal. There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are all
present in court.

THE MARSHAL: May it please Your Honor, all the defendants are
present in the court with the exception of the defendant Becker-Freyseng,
who is absent, having been excused yesterday.

THE PRESIDENT: The Secretary General will note for the record the
presence of all the defendants in court save the defendant Becker-
Freyseng who is excused upon request of his counsel in order to consult
with his counsel.

Counsel may proceed.

DR. FRGESCHMANN (Counsel for the defendant Brack): Mr. President,
I have a request to make at the beginning of this morning's session. In
the case Brack, which I initially imagined to be only small, it has
become extended in the last six months, owing to the enormous amount of
material, to one of the biggest cases of this proceeding. Altogether
I had received over 750 applications, offers, and representations from
people who declared themselves ready to come here as witnesses or write
affidavits on his behalf. Of this large number I only submitted 36
affidavits to this Tribunal. Three of these affidavits are contained in
a supplemental volume which I submitted to the Secretary General only a
few days ago because they had come in too late. I should be very grate-
ful to the Tribunal if they would ask the Secretary General to have this
supplemental volume translated by tomorrow morning because at that time
I hope to be finished with the direct examination of my client.

THE PRESIDENT: The clerk of the Tribunal will convey to the Secre-

tary General the request to expedite, as much as possible, the documents referred to by counsel for the defendant Brack, and place before the Tribunal at the earliest possible time the supplemental document book to which counsel has referred.

DR. FROESCHMANN: I didn't quite get the German translation; I didn't have my switch on correctly. I was concerned with supplemental volume number 3. Thank you very much, Your Honor.

VIKTOR BRACK - Resumed

DIRECT EXAMINATION (Continued)

BY DR. FROESCHMANN (Counsel for the defendant Brack):

Q. Witness, I at first remind you that you are still under oath today.

A. Yes.

Q. Yesterday we concluded the session while you were talking about the time you volunteered for the Army. What happened before you joined the SS?

A. On the occasion of my mother's death I met my brother - he was a mechanical engineer and a motor transport officer in an SS division. He complained to me that he was continually receiving wrong technical orders, which in part had a result in the catastrophe resulting from the lack of motor vehicles. I, myself, while in Russia aiding the wounded people, had an opportunity to observe our motor transport problem. For that reason I decided to visit Himmler and report these matters to him in order to improve that situation, if possible.

DR. FROESCHMANN: Mr. President, in that connection I should like to revert to Exhibit No. 5, which is the affidavit already submitted by the brother of the defendant Brack, Document 41, paragraph 3. This is to be found on page 1 of supplemental volume number 1.

BY DR. FROESCHMANN:

Q. Would you continue please.

A. I reported these matters to Himmler but subsequently, I don't know why, voiced my criticism about other matters within the SS.

Himmler quietly listened to me but then tried to convince me in his way about the correctness of what he was doing. He admitted that some things in the SS weren't as he would like them to be, and that some of the men in the SS did not quite fit into the organization. But, he said, at this critical point he needed every single one of the old SS members. He said, approximately, only if the old comrades would stand by him faithfully could the SS cleanse itself of these people who did not fit into it. He could only expect the most heavy tasks to be carried out by the old SS members. Then he suddenly stopped and told me that Hitler had some time ago given him the order for the extermination of the Jews. He said that the preparations had already been made, and I think that he used the expression that for reasons of camouflage one would have to work as quickly as possible.

He seemed to say these things devoid of any inner approval of them, but he also said them as if they were a matter of course. I had the feeling that he didn't innerly approve of these orders but he showed no sign of any mental shock. I, however, was deeply shocked to hear of these developments because now for the first time I had heard concretely, by somebody who was in a position to know, that all of these rumors were actually true; that there was in effect the intention to exterminate the Jews.

I don't know whether Himmler expected to make this impression on me. I thought that Himmler expected that I would offer my assistance in this matter. I couldn't say anything but that this seemed to me to be an enormous task and that I could not understand how Himmler could bear the responsibility before humanity for these acts. I then tried to conclude this conversation as quickly as possible, and on this occasion told Himmler that Bouhler had permitted me to volunteer for the Army and that for that purpose I had already gone to the Fuehrungshauptamt. After that I departed.

Q. What was the result of that conversation?

A. I redoubled my efforts to get to the front and I tried to conclude the formalities as quickly as possible. Now a fate was taking its course, which I did not think I could successfully oppose. I saw before me a possibility to do something for my nation in a decent way. However, I wanted to get away from an office and a Fuehrer whose radicalism I had begun to realize more and more and where my reason would not allow me to cooperate any longer. I thought that only as a soldier could I put distance between these things and myself. I did only what many of other comrades had already done before, comrades who no longer wanted anything to do with the high leadership and who went to the front.

Q. Now Mr. Brack then I think at the end of April or the beginning of May you went to the front, but wasn't there another event in April which may be of some importance for the Tribunal?

A. Yes. Before I left I met - and by accident, we could ascertain the date, the 19th of April - I met Globocnik at a concert on the 19th of April in Berlin. Globocnik asked me whether Reichleiter Buehler was in Berlin and whether he could speak to him. I said, yes, Buehler was there and he could visit him. Globocnik did that and Buehler told me after this conversation that Globocnik had asked him to furnish him supervisory personnel for his working shops in Berlin, which was to be taken from the T-4 euthanasia program. Reichleiter Buehler said he complied with this request of Globocnik, but he reserved the right that these people should return to him as soon as the execution of the euthanasia was once more started. I approximately remember the words of Buehler

who said: "Here these people will be used in a productive capacity, because they would be working in the camps, and as soon as I need them I shall get them once more." Buehler told me I was to issue a directive to T-4 that these peoples were to be furnished. These people were then separated from the organization and were detailed to him.

Q. Witness, there is a document available here, NO-405, Exhibit 163, English Document Book, volume 6, page 39. This is the well known second letter in which you concerned yourself with euthanasia proposals. You write on the 23 June 1942, and the letter is addressed to Himmler:

"On the instructions of Reichleiter Buehler I placed some of my men - already some time ago - at the disposal of Brigadefuehrer Globocnik to execute his special mission."

Have you the document before you?

A. Yes, I have it.

Q. As far as I read this introduction in this letter, is it a reference to the conversation you had with Globocnik, or is it in reference to the directive which Buehler gave you as a result of that conversation which you had with Globocnik?

A. Yes.

Q. Witness, I once more revert to your affidavit NO-426. There is a paragraph in that affidavit entitled: "Connection between the "E" program, the euthanasia program, and SS Brigadefuehrer Globocnik." Would you please define your attitude toward this rather strange title in your affidavit?

A. The formulation of that title does not originate from me. It was chosen by the author of that affidavit.

When I was interrogated I did not know anything about any connection between Globocnik and the euthanasia program. The interrogator perhaps thought it expedient to formulate that title in such a manner. As a matter of fact there was no connection between the execution of euthanasia and whatever Globocnik was doing. The one was euthanasia, mercy death for sick people whose existence could really not be called living any longer, and the other meant the murder of hundreds of thousands of Jews. At that time I didn't really pay any attention to the title but limited myself to the text, as far as I could understand it.

Q. Witness, in other words you went to say that when submitting this affidavit, as far as you were in a position to follow it, you attached more importance to the text contained in your statement than you did to the titles given to the various chapters within your affidavit? For that reason you did not attach the importance to this heading, which seems to establish a connection between euthanasia and Globocnik, that an outside observer might?

A. I didn't really understand it in its significance.

Q. Now in this statement you were referring to this personnel which was to be furnished for Lublin. With reference to paragraph 14 within your affidavit, is there anything you would like to add? Did you at that time perhaps remember the matter somewhat differently? It says here: "The Fuehrer asked me to send this personnel to Lublin, after a conference with Himmler, at the disposal of the Brigadefuehrer Globocnik."

A. At that time I really didn't know it exactly. I really didn't know what the connections were at that time. As a matter of fact it was Globocnik who discussed that matter with Buehler and not Himmler. My limitation in

that sentence, as I believe, is really justified.

Q. Then you go on to say: "Bouhler asked me to furnish these personnel which could be released because of the stoppage of the action." This does not quite correspond with your statement now, because now you only say you were going to furnish a part of these people.

A. I already stated that at the time that we were only concerned with a small part of the people, about twenty to thirty, only a small part of them were released. Even after the euthanasia as such was stopped, the scientific and preparatory work, however, was still going on.

Q. You stated during your interrogation what you have said to the Tribunal today, that Bouhler told you at that time that he wanted to reserve the right to use that personnel later for euthanasia?

A. Yes, I stated that at the time. I said that Bouhler was worried, that Bormann would carry on with the euthanasia program if he didn't control it any longer, and that then a misuse was to be expected, and I further stated it was my opinion that this personnel would be used in the work camps. Perhaps I didn't emphasize that sufficiently when I was interrogated at that time, because my memory at that time wasn't clear enough. It was quite clear that Bouhler only furnished personnel for that purpose, and under the condition that they would only be used in the work camps.

Q. Witness, the Prosecution asserts that Bouhler, in full knowledge of the purposes for which they were to be used, had furnished T-4 personnel to Globocnik in order to exterminate the Jews. You were previously speaking of a conversation with Himmler which took place in the beginning of April 1942. According to your further

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statement Globocnik, on the 19th or 20th April 1942, had spoken to Bouhler. I can then understand the point of view of the Prosecution when they say that on the occasion of this visit of 20 April 1942, Bouhler, by request of Globocnik, furnished that personnel to him for the purpose of the extermination of the Jews. You know what the witness Hederich had testified here about Bouhler. We need not repeat it. I am asking you, however, knowing the mentality and the personality of the Reichleiter Bouhler, do you consider it possible, or would you say that it was out of the question, that Bouhler in that conversation of the 20 April 1942, furnished the personnel of T-4 to Globocnik for the purpose of the extermination of the Jews? Have you anything that could make you believe that, yes or no?

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A I think that it is quite out of the question that Buehler would have furnished the personnel to Gleboenik had been known that it was Gleboenik who had received the order from Himmler to exterminate the Jews. I am convinced that Buehler would have rejected any such thought, as he actually did later, and I actually did inform him of the subject of my conversation with Himmler. At that occasion Buehler quite openly expressed his disapproval about this, and he said, "This is the beginning of the end", I had no occasion, and Buehler had no occasion to connect Gleboenik in any way with extermination of the Jews. Both of us when visiting Lublin in September 1941 had seen all of the construction work and we saw that some of the factories were already operating. We could not imagine that these people were to be used for anything else but working in these camps.

Q Witness, let me interpolate a question. Did you at any time during the War learn that people were committed from the T-4 for the purpose of extermination of the Jews, or have you only heard that they allegedly were committed for such a purpose?

A From my own knowledge I can say nothing. I already emphasized during my pre-interrogation that I heard at the end of 1942 that these people were allegedly used for the extermination of the Jews. Whether they were actually used for such a purpose - I still don't know that. I am convinced at first that they actually were used in the manner designated by Buehler, namely working camps. It is possible that Gleboenik later had started to use them for the extermination of the Jews, after having thought perhaps that there would be no objection on the part of Buehler.

Q Witness, as you stated earlier, you went to the front at the end of April or beginning of May-your division was stationed in the South. In the course June 1942 did you once more return to Berlin?

A Up to the time the division went into action I went a few times to Berlin because the division was only being activated and I as supply officer had often to go to Berlin. That is why on 9 June

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I was in Berlin because my Commanding Officer had asked to attend the funeral of Heydrich and had to fly to Berlin. On this occasion he also took me along in the plane. At that time, I remained in Berlin for a few days in order to do some work there.

Q One moment, Mr. President, in order to confirm the testimony of the witness Brack to the effect that on 9 June and thereafter which will be some importance, he was in Berlin-I should like to refer to my Exhibit Brack, 11 on page 2 para 2. This is the affidavit of Karl Wolf.

THE PRESIDENT: Page 2 of what Document book?

DR. FROMSCHMANN: This is my document No. 4 page 9 of Document Book No. 1 and submitted by me as Exhibit Brack No. 11. It is on page 10, Paragraph 2. It says:

"I met Brack only infrequently during the war, so for instance at the funeral of Heydrich in Berlin on 9 June 1942."

This establishes the correctness of the testimony of the witness Brack. Witness, will you please continue.

A During those days I was in Berlin I also visited Buehler. He told me that Globocnik had visited him a second time and had asked that more personnel be detailed from T-4. Buehler agreed because he thought he could dispense with some more of his personnel. After getting his agreement Globocnik took him into his confidence as the conversation progressed and told him that he had been committed by the Reichsfuehrer Himmler to help carry out the extermination of the Jews. Buehler was quite shocked about this information and he immediately withdrew his agreement to furnish this personnel, and he also asked that personnel which had already been detailed to him should be returned. Buehler, as he told me, maintained the point of view that it was utterly impossible to use people for the execution of Euthanasia once they had already been used for such a terrible purpose. He said that the assignment as Globocnik was carrying through had as a result the absolute degradation and brutalization of the people involved. Globocnik however, then told

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him that these people wouldn't be use for that purpose, but would only be used as supervisory personnel in working camps. Buehler then withdrew this objection to the use of the personnel.

Q And what about you witness?

A I had already given up all hope after that conversation with Himmler that the course of this fate could be stopped in any way. But I had always hoped that foreign political considerations might perhaps dissuade Hitler from carrying out all these plans. But, if that was not the case the thought arose in me whether one shouldn't once more make the attempt to dissuade Hitler from these plans for purely practical reason, which we would. At that stage of the war the labor supply played a considerable part. In all countries labor was needed forced labor began to be used because our own resources were no longer sufficient. Under these considerations one could perhaps persuade Hitler that it would be more expedient to use these Jews in labor rather than exterminate them. I told Buehler at that time that in the case of these 8 to 10 million European Jews there must, I am sure be a great number of Jews who are capable for work. One must put it to Hitler that it was of immense importance to save this potential labor pool. Hitler's concern that Germany itself could be endangered for the future would have to be countered by telling him that the sterilization plan could be once more put into execution, because by using this plan of permanent sterilization the danger could be removed. If Hitler would entertain that thought we imagined that so much time would lapse that the war would come to an end in the meantime. This would mean really that not only these Jews capable to work but all other Jews would be spared. Even if this deception were noticed at the end, a long time would have lapsed in the mean time.

Q Witness, if I understand you correctly, after receiving that information from Bouhler and after hearing that Globochik had been commissioned to exterminate the Jews in the East, you initiated the thought of stopping this terrible measure by trying once more to put to Himmler and Hitler the plan of a permanent sterilization of the Jews?

A I brought up that thought in the debate because Bouhler was so shocked, and was always asking, "How can we possibly help? How can we keep this madness from happening?" And then I thought of the sterilization program. We tried to find some possibility to help. It was like the straw which the man drowning tries to grasp.

Q Did the situation appear somewhat easier because of Heydrich's death in January, 1941?

A Yes, it seemed considerably easier. I always thought that it was Heydrich who played a considerable role in all these brutal measures. After Heydrich's death, I believed that Himmler had quieted down somewhat. Bouhler listened to all these proposals, but did not dare to approach Hitler personally. And he was right: He told me that after he as Reichsleiter had already been refused permission to carry out the Madagascar Plan he could not possibly, particularly in view of Bormann's attitude, suggest another such plan to Hitler; but he said that there was a possibility of trying it via Himmler. Then, of course, after having been rejected by Hitler once, he could not himself propose that plan, because if this plan was again rejected it would have been very unpleasant for him. He said that if I was going to do that, because of my good relationship to Himmler, that would be something entirely different, and then he would be able to support me, because I was his

subordinate, in case any difficulties for me arose with Himmler.

Q Witness, when discussing this conversation you were speaking of the labor problem which began to be of paramount importance. Did Himmler, in any way, participate in the solution of this problem?

A Not directly. Himmler, as Globocnik told us, had already issued the order in the fall that forests were to be planted in the Ukraine and that, of course, would have been a possibility of a large-scale labor commitment.

Q And for that reason you believed that Himmler was the suitable person, needing so many workers, for you to give the argument to that workers were necessary?

A We had plenty of work but there weren't sufficient workers and, for that reason, we would have to put it to him that he would have to save as many workers as possible. Now, of course, he could put that matter to Hitler in turn was his own affair but, at any rate, Himmler was the more powerful man, not Bouhler.

Q Now witness, Bouhler thought that he personally could not approach Hitler. Bouhler didn't seem to be particularly anxious to approach Himmler. How did it come about that you offered yourself in approaching Himmler?

A Bouhler almost put this offer into my mouth. He said "You can do it." His own relationship to Himmler was too estranged, and he said that he could support me in case any difficulties for me arose. I, at that time, already knew that after Heydrich's death there couldn't be any immediate danger. In addition, I was already in the army. I really didn't think that he would notice so very quickly that this plan couldn't be carried out in practice - I thought that would take many months.

Q Now, Mr. Brack, let us turn to the most important point.

The prosecution has submitted the Document NO-205. During the opening statement at the beginning of this trial it designated this letter as a sub-human and depraved report, and they said that this was no sterilization to exterminate people suffering from hereditary diseases, but that here sterilization was used for criminal purposes. You will have to admit that this assertion of the prosecution, can not be considered in view of this letter, to be without justification. I ask you now, in view of this enormous charge which was raised against you, to tell the Tribunal how you came to write this letter of 23 June 1942, and how you wanted to be understood. In this way, the Tribunal will be in a position to gain an objective picture of what happened and what was done.

A. How I came to write this letter I already told you. It was as a result of that conversation with Bouhler. How this letter was actually submitted to me in the interrogations I can't remember. I saw only the first two sentences, and also acknowledged my signature underneath it. At that time of the date of this letter I was already with the army and when this letter was first shown to me I thought that this letter couldn't possibly have originated from me. In the meantime, however, I recalled more of the details. Today I can only repeat that I do not believe that this letter originated from me in actual wording. I think that it had only been sent to me for my signature. I believe I can remember either that I drafted this letter roughly, or gave one of my collaborators the order to write it. No matter how that may be, this letter represents essentially the intentions Bouhler and I had. The significance of that letter is not in its beginning - is not in its introductory words. The significance of that letter is solely that mention is made of the possibility of the labor commitment

of the Jews.

I think that it is correct that I once more cite this document, with the approval of the Tribunal, in order to enable every one to understand the question. It is the Document 205, Volume 6, English Document Book, page 39. The letter is not long and will only take a few minutes to read:

"Viktor Brack, SS-Oberfuehrer

"Top Secret

"Berlin, 23 June 1942

"Dear Reichsfuehrer:

"On the instructions of Reichsleiter Bouhler I placed some of my men - already some time ago - at the disposal of Brigadefuehrer Globocnik to execute his special mission. On his renewed request I now transferred additional personnel. On this occasion Brigadefuehrer Globocnik stated his opinion that the whole Jew-action should be completed as quickly as possible so that one would not get caught in the middle of it one day if some difficulties should make a stoppage of the action necessary. You yourself, Reichsfuehrer, have already expressed your view, that work should progress quickly for reasons of camouflage alone. Both points which in principle arrive at the same result are more than justified as far as my own experience goes; nevertheless would you kindly allow me to submit the following argument:

"Among 10 Millions of Jews in Europe are, I figure, at least 2 to 3 millions of men and women, who are fit enough for work. Considering the extraordinary difficulties, the labor problem presents us with I hold the view that these 2 or 3 millions should be specially selected and reserved. This can however only be done, if at the same time they are rendered incapable to propagate. About a

year ago I reported to you that agents of mine have completed the experiments necessary for this purpose. I would like to recall those facts once more. Sterilization, as normally performed on persons with hereditary diseases, is here out of the question because it takes too long; and is too expensive. Castration by x-rays however is not only relatively cheap, but can also be performed on many thousands in the shortest time. I think, that at this time, it is already irrelevant whether the people in question become aware of having been castrated after some weeks or months, once they feel the effects.

"Should you, Reichsfuehrer, decide to choose this way in the interest of the preservation of labor, then Reichsleiter Bouhler would be prepared to place all physicians and other personnel needed for this work at your disposal. Likewise he requested me to inform you, that then I would have to order the apparatus so urgently needed with the greatest speed."

Signed, Viktor Brack.

Witness, I ask you now to define your attitude toward that letter.

A I have already said that the significance of this letter is only the labor forces which are mentioned. I had nothing at all personally to do with the commitment of labor. It was a matter of complete indifference to me, and it would have been a matter of complete indifference to me whence Hitler or Himmler got their workers for their plans. If I had a proposal to Himmler mentioning the capability of the Jews to work it was only based upon my wish to stop this mass murder at the last minute and try to point out the possibility of permanent sterilization, which was already mentioned in my previous letter to Himmler. The pretext which I used was old and I knew that this method could really not work. I didn't concern myself with the manner any more, and no experiments had been carried through. The new thing in this suggestion is my reference to the maintenance of productive labor. After not having spoken to Himmler since April 1942 I had to find some point of attack, and I did get this point of attack by my reference to the conversation between Globocnik and Bouhler regarding the detailing of T-4 personnel. Himmler was hardly informed that Globocnik had taken Bouhler into his confidence about his extermination assignments. I had to explain that, and for this reason I made reference to the furnishing of personnel to Globocnik. If a special mission is mentioned as the purpose of this furnishing, I must say that under "special mission" I understood the large-scale work projects at Lublin, which I had visited. In this way I pointed out the manpower possibilities to Himmler. I had to make some reference to when and how Globocnik told Bouhler of his plans and for this reason I constructed this introductory sentence as you already read it. I would like to emphasize, however, that the words "on this occasion" in this letter are not at all synonymous with the words "in this connection". What it should mean is "in the course of this conversation", and that is exactly how I described it before.

Q Now, witness, you were saying how that you had written to Himmler reminding him that you had spoken to him before and telling him that you had already furnished these men from the T-4 to Globocnik

in April of 1942, and you then thought: Himmler couldn't possibly know how I came to know about Globocnik's order to exterminate the Jews, and I shall have to explain how this came about; and this is exactly why you made this introduction in this way?

MR. HOCHWALDT: Just a moment, please. I object against the explanation. This witness told us for quite a long time how he understood the letter, how he wrote the letter and why he wrote the letter. I do think it is unnecessary that defense counsel is just repeating what the witness just said from the stand.

THE PRESIDENT: Counsel for the Prosecution is correct. This is entirely superfluous. Objection is sustained.

Q Would you please continue, witness. We had stopped at the introduction of the letter. And now will you please pass to the contents of the letter itself?

A Now I have explained the connection with Globocnik. Furthermore, it says in the letter that the action was to be carried out as quickly as possible. I had to count on a very quick development of things. Therefore, I had to apparently agree with Himmler's and Globocnik's opinion in order to find an occasion for the letter.

MR. HOCHWALDT: May it please, Your Honor, I had the impression that my object was against further discussing the letter and the document as such. The defendant Brack has spoken about his letter for some time and I do think he has told the Tribunal everything about the letter. I do think that what he is referring to now is completely repetitious.

DR. FROESCHMANN: Mr. President, I cannot at all agree to that opinion. The possibility must be given to the defendant Brack under all circumstances to be in a position to explain to the Tribunal exactly what he wanted to express with the letter in detail. Defendant Brack as far as I am informed, is almost through with the letter and needs only a few more sentences. I ask that the opportunity be extended to the defendant Brack to explain himself and defend himself properly on this

vital point.

THE PRESIDENT: The defendant may explain this letter any way he desires, but he should avoid repetition and not repeat what he has stated before. If defendant desires to make any point which he has not already made, the witness may make the explanation.

THE WITNESS: Yes, Your Honor. I expressed the fact that I was counting on a quick development by writing that in my opinion and from my own experience I felt that a rapid development of this procedure was more than justified. In that connection I was thinking of my experiences with euthanasia, in which I had found out that camouflage was possible. In that way I apparently agreed with Himmler as to the expediency of a quick development; but then I added that I would like him to keep something in mind; and then I said that despite the fact that his interest in a quick development was justified, he should also take into account my point of view; and this brought me to the real purpose of that letter, namely not to exterminate the Jews, but to preserve them. In order to be able to bring up my old sterilization plan, I had to remind Himmler of what he had told me in the year 1941, when he was developing his sterilization plans. That is why I furthermore adapted myself to his mentality, and his way of thinking, by saying that that could only be done if they were rendered unable to propagate. In that way, I pretended that I shared Hitler's worry that the Jews would be in a position to endanger Germany if they are not sterilized. If I say then -- and I have been asked about the significance of that sentence -- that it was immaterial whether the people in question become aware of having been sterilized or not. I did so in order to allay the suspicions Himmler must have felt as a result of my letter of March 1941, where I said that sterilization cannot be carried out without being noticed. I said that now these misgivings were not longer worthy of discussion, because knowledge of the extermination of the Jews had already penetrated into too large a circle. In the last paragraph, I once more emphasize that the labor material would have to be

preserved, and I wanted to emphasize this point as strongly as possible. I also mentioned that Reichleiter Bouhler would be able to place our physicians and other personnel needs for this work, because Hitler might have objected that we didn't have enough physicians for the execution of that work. My last remark to the effect that we ourselves would be able to get the apparatus necessary was to give Bouhler the opportunity to delay getting the X-ray apparatus.

From the Document 208, Exhibit 166 in Document Book 6, it can be seen that the first report about the sterilization experiments had been sent on the 29th of April 1944.

DR. FROESCHMANN: Mr. President, the document to which the defendant is now referring to, Document 208 can be found in the English Document Book Volume 6, page 43.

A (continued) One year and a half had passed until even a report was ready to be made. I personally don't know anything about the further development of any matter, but I can certainly conclude on this very late date that it was possible for Bouhler to delay the beginning of these experiments to a great extent.

THE PRESIDENT: Before going into discussion of this other letter, the Tribunal will be in recess.

(Thereupon a recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. FROESCHMANN:

Q Witness, before the recess you had concluded discussing Document No. 205 and you were dealing with Document No-206; and you had emphasized that the experiments, which were apparently performed by Dr. Schumann without your knowledge, after one and a half years came to a negative result.

A I should like to correct an error - not 206. I had referred briefly to Document No-208 which is Exhibit 166. I said that as far as I can judge now Bouhler had succeeded in delaying the beginning of the experiments by arranging that the x-ray machines were delivered late, because this time was a year and a half later. But, I myself had nothing more to do with these things from that moment on. Consequently the answer letter to Himmler, which was NO-206, did not come to my attention. Exhibit 164, on page 41 of the Document Book VI. This letter shows that Himmler accepted the slogan "workers" and now I see from this document that Himmler sent a carbon copy to Pohl. This document NO-206 also shows that Himmler wanted to perform experiments first. Thus, the delay which I had intended in case Himmler should give up his intention of exterminating the Jews had been successful, because the execution of the experiments would have been senseless if the extermination of the Jews had continued at the same time. Today I am convinced that by performing these experiments hundreds of thousands, if not more, Jews were saved. This letter also shows that Himmler in the last analysis considered me merely a middle man between himself and Bouhler because he says, "I would be grateful to Reichsleiter Bouhler if he would place physicians at my disposal." Whether my successor Blankenburg was able also to carry on delaying tactics against Hitler I do not know. Document NO-206, Exhibit 165, Document Book VI, page 42 in the English, shows that in this letter to Himmler he had agreed to establish contact with the Chief of the Main Office for Concentration Camps. That allows one

to conclude that he also attempted to delay the matter, but I didn't know what assignment Bouhler had given him until these letters were submitted here during the trial. I had no idea of their existence and later I never asked Bouhler what happened in this matter and whether he made any doctors or one doctor available. I can merely say from hearsay that Dr. Schumann was made available, but if this was done by Bouhler then Bouhler certainly urged Dr. Schumann to take as much time as possible with the experiments. Now I can refer again to Document NO-208, Exhibit 166, page 43 of the English Document Book VI. This last letter, which was submitted by Prosecution in this connection, indicates clearly that the delay which at least I intended, even if complete success was impossible, did occur, because the letter was written only one and one half years later. I don't know what Schumann's work was that is mentioned here. I don't know about it. That Blankenburg in this letter asserted that Himmler had asked me to continue Schumann's work is not true. Such a request as seems to be mentioned in this letter was never expressed to me by Himmler. Blankenburg apparently concluded from the letter - NO-206, Exhibit 164 - that Himmler was making such a request. That is, however, wrong, because in this letter Himmler says that he himself is interested in having the experiments carried out. The request to make the doctors available to him proves that Himmler himself wanted to arrange for and carry out these experiments. The letter which I just mentioned, NO-208, Exhibit 166, on page 43 in the English Document Book VI, proves finally that in practice the procedure suggested was a perfectly good method.

Q Witness, we have finished the discussion of these letters which the Prosecution submitted to prove your collaboration in the Program for the Extermination of the Jews. You have explained everything to the Court. I need not repeat. I should merely like to express my personal opinion and ask whether it is true, and whether you admit, that actually you were acting with a humane intention and from stupidity let yourself be involved in a matter which you did not understand. Is that true?

A Yes, that is true."

Q Now, Mr. Brack, the names of two doctors mentioned in these letters which were the subject of discussion at your interrogation - one is Dr. Schumann, who has been mentioned repeatedly, and the other is Dr. Eberl. In the course of this trial the Prosecution has repeatedly expressed the suspicion that Schumann had some connection with the T-4 Euthanasia Program or participated in the extermination of the Jews. Can you quite briefly give the Court your personal knowledge about these matters?

A Dr. Schumann was the head of a Euthanasia Institute and in part also acted as an psychiatric expert. I say Schumann the last time in the Rescue work in the East where he was in charge of a medical post. As far as I recall, after that he left the service of the Euthanasia organization and resumed his private practice. When and where he was assigned to the sterilization experiments I do not know. But, I must assume that Bouhler did that himself with the intention, however, of delaying the sterilization experiments, since Schumann was personally known to him. I myself had nothing to do with this appointment. It was long after my time. Dr. Eberl was also known to me from T-4; of his participation in the 14F13 drive I know nothing. Of his activity in an extermination camp I heard about in 1943 once or twice through third parties. He also, when the Euthanasia program was stopped, left the organization of T-4, I believe, because I never saw him again.

Q Now, witness, I come back to the affidavit 426, Exhibit 160, English Document Book 14, page 10, and it is No. 15 that interests me at this point. I shall quote:

"Among the doctors who assisted in the Jewish extermination program, were Eberle and Schumann. Schumann performed medical experiments on prisoners in Auschwitz. It would have been impossible for these men to participate in such things without the personal knowledge and consent of Karl Brandt. The order to send those men to the East could have been given only by Himmler to Brandt, possibly through Bouhler."

But it says there very definitely that you had knowledge about this, that Schumann performed medical experiments on prisoners in Auschwitz and also that these experiments could not have taken place without the defendant Dr. Karl-Brandt knowing about it. This does not agree with your testimony so far. What can you tell us about that?

A The inclusion of this paragraph in the affidavit was not done by me, but by the person who drew up the affidavit. I was told that paragraph 15, just like paragraph 12, came from me. At first, I refused to sign it but I was told that that was merely a logical conclusion from all the things that I had said before. As I have just said, I told them that I had heard from a third party that Eberle had participated in the extermination of the Jews. I did not mention the name of Dr. Schumann in connection with the extermination of the Jews because I knew nothing about it. When the affidavit was given to me, I saw in number 15 that Schumann was mentioned in this connection. I therefore demanded that the sentence be added that Schumann had not carried out "sterilization experiments", and then I changed the expression to "medical experiments". And it was the same with the matter of Brandt's knowledge. I objected to this formulation because the fact was quite unknown to me, and the interrogator said "was impossible", would be changed to "it would have been impossible", to indicate that it was merely a deduction.

Q Just a minute, witness. In the original affidavit which was given to you for your signature did it say "it was impossible for these men to participate in such things without the knowledge of Brandt"?

A I can't say that with absolute certainty, but I do believe I can remember it.

Q I'm asking you, witness, because you said "was" was changed to "would have been"?

A Yes, that's what I remember, but I can't say for certain. I did not want to sign this wrong sentence, but I was told again and again that this was only a deduction, and if this deduction, which merely reproduces your opinion is not true, it is quite possible for Brandt to correct it. I was in a condition at that time which did not allow me to realize that I was in no way obligated to accept a deduction of other people as my own deduction, and that is how it came about that I signed #15.

Q And then at the end it reads, "possibly through Bouhler".
Did you put that in?

A Yes, because I did not know the relationship between Himmler and Brandt, while I knew, through the euthanasia assignment, how Bouhler and Brandt worked together.

Q Now, witness, in #16, and this brings me to the end of this affidavit, there is a sentence, "Himmler demanded that a name of a doctor be given him. Schumann, as far as I can recall, gave me and Bouhler a report on his experiments." Is that true?

A That does not really correspond to the facts. That was what the interrogator told me - that Himmler asked for a specialist doctor. I was not able to check the correctness of this statement and assumed that it was correct. The report which is mentioned in #16 was not the 1944 report, which is mentioned in Document No. 208. It refers to a vague recollection of mine of information from Schumann that he himself had some knowledge of X-ray matters and had earlier carried out experiments in it. The report which he gave in 1944 I learned about only here.

Q Then, I have finished the discussion of the charge of sterilization. Do you have anything more to say on this subject?

A I can only say that I believe that in my testimony so far I have explained that I never had any intention of exterminating the Jewish people, but attempted to achieve the contrary, to protect the Jews and save them from a terrible fate. That I attempted something that was far beyond my power, my position, my ability, I must admit is true. But since, in all my life, I have always been helpful toward and never had any hatred of Jews, I can't imagine why I should have become a champion of the extermination of the Jews.

Q Are you finished? Mr. President, I should like to make one brief remark concerning sterilization. I have endeavored to have the associates of the defendant Brack concerned with this subject found. My efforts and the efforts of the prosecution, as far as I am informed,

have been unsuccessful. For that reason, I must unfortunately depend on the testimony of the defendant Brack alone in this connection. I am convinced that if I had succeeded in finding one of the men who are mentioned, as a witness, the Court would hear a confirmation of Brack's statement. I conclude my evidence in regard to sterilization experiments and now I turn to the charge that Brack collaborated in euthanasia for as a preliminary step toward genocide. Witness, you know that on the basis of the testimony of the witness Mennecke, the prosecution attempts to bring you into connection with the superficial - almost too weak a word - examination of political prisoners, Jewish prisoners, prisoners in preventive custody, in the concentration camps. What do you have to say to this charge of the prosecution?

A True, the prosecution called euthanasia a preliminary step toward genocide. Considering the documents and the witnesses available to the prosecution, I can understand such an assumption on the part of a representative of the United States. The secrecy which surrounded Hitler's decree of the 1st of September, 1939, and the elimination of political opponents, prisoners of war, members of other nations, and finally, the murder of millions of Jews could and had to perhaps give the prosecution the impression that the government of Germany, from the beginning of the war, had the intention of making the euthanasia arrangement an instrument to be used against all real or imaginary enemies of Germany, within the framework of an ostensible euthanasia program. This assumption, however, is definitely mistaken -- that euthanasia, in the hour of its birth, had been intended as such a method, or that the thought could have even arisen that, for reasons of expediency, the whole German people were to be freed from the so-called "useless eaters" and then, in the future course of events, enemies of Germany would be exterminated under the pretext of euthanasia. When euthanasia was introduced, we welcomed it, because it was based on the ethical principle of sympathy and had humane considerations in its favor, of the same sort that the opponents of euthanasia claim for their

own ideas. I admit that there were imperfections in its execution, but that does not change the decency of the original idea, as Bouhler and Brandt and I myself understood it.

Q Witness, we know from the case so far that, in the course of time, euthanasia installations were used for this Action 14-F-13 and everything that followed. Do you consider it possible that Himmler, from your knowledge of things today, might have gotten such ideas from some words which Hitler dropped in conversation and from these ideas created the Action 14-F-13? Is it possible that men like Himmler, knowing that these sterilization experiments would be unsuccessful - these experiments that we were just speaking about - that he, in applying euthanasia, with these means and methods saw a more useful tool than the useless sterilization experiments?

A As I judge Himmler today I consider that possible.

Q Then would that not lead us to the conclusion that Himmler committed the crime against humanity since he took the idea of euthanasia about which one might have different opinions on the ideological point of view, distorted it for reasons of hatred or bigotry, and used it for the murder of Jews?

A Yes, that is doubtless possible, because the idea of euthanasia was mis-used by the commission of all of these crimes. What was done here has nothing to do with euthanasia as a benefit to the person who is living a life unworthy of living. I don't want to say a great deal here about the ethical basis of euthanasia, but by way of introduction to this subject, I should like to say that my whole attitude was based on religious up-bringing. Only my helpfulness toward everyone and especially towards the sick made me an advocate of the idea of euthanasia.

Q Now, witness, I asked you at the beginning to speak about Mennecke's testimony. You thought it right to give briefly your ethical attitude toward euthanasia; how, how about Mennecke's testimony?

A According to the documents it is true that in 1941, according to 1151 PS, Exhibit 411, the Document Book 16, page 14 of the German, 12 in the English, it was on the 12th of November 1941 that Himmler sent medical commissions to the concentration camp to select the prisoners. I can say with a clear conscience that up to this trial I had heard nothing of the order of Himmler. The file note 14F 13 was completely — foreign to me as a concept, up to this trial. I cannot recall that I ever heard these numbers 14 and 13, or read them in this connection, but if that should have been the case then I certainly didn't think anything about it, but read it over just like any other file note that one gets when one gets thousands of letters a day. These file notes were always copied automatically from the incoming to the outgoing letter. But by admitting this possibility I do not mean to imply that I have even the slightest recollection of this 14F 13,

but I can say very definitely that up to the beginning of this trial I did not know that these numbers indicated any particular action and certainly not this particular one. If I had known the nature of the project which was concerned under this sign, 14 F 13, not only would I have not consciously participated in such a project, but I would have removed any possibility of supporting such a project in any form.

Q Now, witness, what was the situation?

A The witness Hielscher, on the 16th of April 1947, said that the prisoners in concentration camps, a small number of whom I became acquainted with made a terrible impression. He said that most of them were spiritual wrecks. He said that the majority of them remained sick for the rest of their lives, that their mentality and I might say vitality, were broken. This condition of the prisoners might have been known to Himmler from reports of the concentration camps. To what extent Hielscher's assertion is correct that Himmler expressly through his system broke the spirit and health of most of these prisoners I cannot judge. In this connection I should like to recall the conversation which I had with Himmler in January of 1941. I also saw flaws then when he spoke of his intentions of sterilizing the Jews. I had certain doubts then whether the impression I had had of Himmler up to that time was quite correct, but these thoughts were somehow dissipated because I heard nothing more about it, and I thought Himmler had given up his intentions against the Jews. I considered it as a confirmation of this opinion of mine that Himmler had become more humane that in the summer of 1941 I was told by Bouhler that Himmler intended to have the most seriously ill persons in the concentration camps examined for their physical and mental condition. Himmler asked Bouhler to give him neutral doctors, since he did not have enough confidence in the ability of the camp doctors. Bouhler asked me to get in touch with the T-4 and inquire, or rather ask that experienced psychiatrists be assigned to examine the prisoners in the concentration camps. I did so. Whether I passed the request on to Nietzsche and Heyde, I really can't say.

Q Witness, you just said something rather incidental when speaking of the personality of Himmler, you said you had the impression that Himmler had become more humane again in the summer of 1941, that Bouhler said to you that Himmler had asked him, Bouhler, to send doctors to the concentration camps to examine the people whom Hielscher has described; that might give the impression that you didn't think this thing is very important at the moment, but it seems to me that that was a very important assignment, a very important request that Himmler gave to Bouhler. Didn't you think that the thing was as important then as it may appear today?

A At the time I thought the request was quite a secondary matter. I have to come back now to what I said day before yesterday. I was overworked in the Chancellery of the Fuehrer. What work I did for the euthanasia organization was really only on the side, and at this time in 1941 was limited merely to passing on instructions from Bouhler, and the questions and requests of T-4. During that time I had much more work at the Chancellery of the Fuehrer. I mention this assignment merely because this made me think that Himmler had some good intention here, consequently I didn't have any very exact recollection to whom I passed it on, to one of the men in Tiergarten Strasse 4, and I don't know what became of this assignment. It is possible that the result of these examinations was given to T-4, and then either to the Inspectorate of the Concentration Camps or to Himmler, but at the time I was not able to count on the possibility that Himmler, on the basis of these results, intended to exterminate prisoners, whom, according to my feeling at the time he was having examined for humane considerations. I could not assume that.

Q You accepted this assignment from Bouhler in the framework of all the other assignments you were given at the time; you were glad that Himmler wanted to give a psychiatric examination to these poor people, but that you had no reason to think that this result might be used for such an action as the witness Mennecke described, is that true?

A Yes.

Q Now, witness, when you passed this assignment on you knew that it would be dealt with by Tiergartenstrasse 4; did the personality of the Doctors working at Tiergartenstrasse 4 offer you any certainty that these Doctors would carry out the assignment from a purely medical point of view?

A Neither from Chief Expert Prof. Heyde nor Chief Expert Nietzsche was I ever able to observe that there was ever any inhuman or brutal treatment, but in addition, as far as a layman can judge, I had the impression that these two were outstanding Doctors. There were many other good psychiatrists who were called on to help them out in their work. I thought that this assignment was in the best hands.

Q Now did you know that after this assignment was passed on in the summer of 1941 there was any influence at work, whether from Himmler, the Inspectorate of the Concentration Camps or anyone else, in dictating a criminal intent ultimately; did you know that?

A All of a sudden I did not have the time to take any interest in the organization at Tiergartenstrasse 4. At the end of 1939 or beginning of 1940, by the order of Reichsleiter Bouhler, I took an interest in the organization of this new matter, but later that stopped. I hardly ever went to Tiergartenstrasse 4 myself. The office was under Bohne at first and later under Allers and it worked quite independently. My own office was on Vosstrasse and the Euthanasia office was at Tiergartenstrasse 4. I was therefore unable to observe the relations of Tiergartenstrasse 4 to other agencies and, of course, I was unable to observe whether in the meantime without my knowledge or Bouhler's knowledge, other influences had asserted themselves there. I can only assume that today; I consider it quite possible, however, that on the basis of the events, in the spring or summer of 1941, when Bouhler asked for the examinations, closer connections developed between Tiergartenstrasse 4 and the Inspector of the Concentration Camps or some other agencies, of which I know nothing and that suggestions came directly from there to Tiergartenstrasse 4 to have new examinations carried out in the concentrations camps, which would then fall under the Action 14-F-13.

Q Witness, let us go back for a year for a moment. Witness Mennecke alleged that in the spring or summer, not of 1941, but of 1940, he received instructions from Nietzsche, Professor Heyde or yourself to visit the concentration camps and to fill out questionnaires there about prisoners, who were selected by the camp physicians; can you remember this testimony?

A Yes, but I remember that in the Cross Examination, Mennecke changed this statement and he said he could not say with certainty that he talked to me at all about his work in the concentration camps. Mennecke's assertion that with the people whom he mentioned he visited the concentration camps in 1940, it seems to me, is doubtless an error in his memory. In the spring of 1940, Euthanasia was just beginning in the Euthanasia Institutes, the B-Institutes, etc., and at that time there was definitely not enough time to send Doctors to concentration camps on special assignments. I can only assume that the Witness Mennecke confused the year of 1940 with 1941 here. It is possible that he participated in this first examination and the whole physical and mental examination of the condition of the patients in concentration camps, which was ordered by Bouhler. These were perfectly legitimate examinations, as is shown by the names of the other Doctors whom Mennecke mentioned, Dr. Falkelhauser, Dr. Steinmeyer and Dr. Nietzsche. These are all serious older psychiatrists, who would certainly never have permitted themselves to be used for any non-medical action for political motives.

Q Witness, the court does not know Falkelhauser, Steinmeyer and Nietzsche and I do not know them either, so that I could not judge. We are depending on your judgment, but I ask you are these men, Dr. Falkelhauser, Dr. Steinmeyer and Dr. Nietzsche, where they men like Dr. Pfannmueller?

A Well, in particular they were older than Dr. Pfannmueller, I think they were all older. In any case, they seemed to me to be nature, worthy, highly decent human beings. I cannot give any other impression because they made a very out-standing impression.

Q I was about to ask you whether these men were equally decent in

their thinking, to say nothing of their action, at least as Dr. Pfennigmueller showed himself to think here?

A Doubtless, yes.

Q Now, I have another question; Witness Mennecke said that in 1941 he received a summons to select Jews and foreigners orally from Heyde and Nietzsche and, as far as he could remember, from you, but as far as you were concerned, he later admitted he could not remember that definitely; what do you say about this? This was 1941, when could this assignment have been given?

A According to his own letters, which were submitted by the Prosecution, this assignment must have been in October or November of 1941. At this time Heyde was not working at Tiergartenstrasse 4 anymore. He left in August or July of 1941, I don't know if it was July or August. To this extent it is definitely an error of memory on Mennecke's part, moreover, I consider it entirely impossible that Heyde, with all his decent personality, would have given such an assignment and this seems true of the old and serious Professor Nietzsche.

Q And did you yourself in November or at any other time in 1941 give Mennecke such an assignment to examine prisoners in a concentration camp; in a superficial way ignoring the medical point of view as Mennecke asserts?

A I must deny that emphatically. I did not give Mennecke such an assignment and I never talked to him about such an assignment. That would have been against my whole moral attitude. I believe I have already proved how intensely I worked for years against the institution of concentration camps. I would have had to be as two-faced as Himmler presumably was because this assignment was to be carried out in an irresponsible way, as Mennecke said and as the letters to his wife indicate. I would not have been willing to participate in that.

Q Witness, in this connection I am interested in another statement of Mennecke, which is in contradiction to what you just said. The witness Mennecke said that you had objected because in his judgment of the

questionnaires; he took too strict an attitude, do you remember that?

A Yes.

Q What do you have to say about that?

A I deny this too, according to contents at least it is untrue and possibly the fact that I discussed such a thing with him at all is untrue. I am not a Doctor and I could not criticize an expert in any way concerning his medical work on his questionnaires concerning Euthanasia. But, I admit the possibility that at the requests of Professors Heyde and Nietzsche, I asked Mennecke in some other connection to be more careful, that is in filling out the questionnaires in his trips to the mental institutes, because if the questionnaires were not filled out carefully enough, as the witness Pfannmueller testified here when he saw a questionnaire not completely filled out, then the psychiatrist does not have the material for judging the case and then the work has become senseless and there are no results. Since Mennecke, as his letters indicate, was striving to establish records, there is the possibility that he worked a little hastily, but I cannot remember that I talked to Mennecke at all on such a subject.

Q Witness, then how do you explain this testimony of the witness Mennecke, the assertion whether it was in the summer of 1940-1941, and whether it was because of you Hietzsche or Heyde that he got an assignment to carry out action 14-F-13?

A When Mennecke appeared here on the witness stand he was in a very bad or unfortunate situation. He had been condemned to death by another Court. Therefore, this testimony to the extent that it does not correspond to the truth, I can explain only from an effort in his difficult situation to shift the responsibility from himself to others, in this case to me, so that he could reduce his own responsibility and perhaps obtain clemency. It is quite possible that Mennecke received suggestions for what he did from Landesrat Bernotat and his associates. I have been able to learn now that the Hesse agent Bernotat was obviously a radical advocate of euthanasia and had a circle of such radical advocates of euthanasia. I also believe that Mennecke through Bernotat was recommended to Heyde or some one else as an expert.

Q You mean that Mennecke through a third person or perhaps on his own initiative had a very superficial and peculiar activity without orders from Heyde or Nietzsche or you?

A No, he was not even encouraged.

Q Now, Mr. Brack, it has been established that the euthanasia institutions, I remember the unfortunate name Bernburg, opened their doors to these transports of invalids so that these unfortunate people who were not sick could be gassed there, a fact from which every decent human being must turn away in horror? Then in your opinion how could such a thing happen?

A I learned that here during the trial. It is completely inexplicable to me. I know nothing about it at the time. I can explain it only by influence from outside, from some other source, on T-4, perhaps the inspectorate of concentration camps, perhaps Grawitz, perhaps through Linden, who was Reich Deputy for mental institutions, I don't know.

Bouhler, if he had any idea of it would have immediately forbidden it and so would I.

Q Witness, you have testified to your knowledge about the action 14-F-13, you admit that in the summer of 1941 through Bouhler you were authorized to pass on an assignment to T-4, to have doctors available for psychiatric examinations of prisoners, but you deny having anything to do with action 14-F-13, as the witness Mennecke described on the basis of the order of 20 November, 1941, is that correct?

A Yes.

DR. FROESCHMANN: Mr. President, then I have finished the charge of the Prosecution concerning the action 14-F-13, and now I come to euthanasia. Should I begin that now or does the Court wish to recess?

THE PRESIDENT: The Tribunal will now be in recess until 1:30.

(The Tribunal adjourned for the noon recess)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 14 May 1947.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

VIKTOR BRACK - Resumed

DIRECT EXAMINATION (Continued)

BY DR. FROESCHMANN (Counsel for the Defendant Brack):

Q. Witness, I remind you that you are still under oath.

A. Yes.

Q. Witness, dealing with the final chapter of euthanasia, I shall have to give you an opportunity to explain your affidavit 426, in the English Document Book Volume 14, page 10, and speak about it with reference to the point which deals with euthanasia. You have already mentioned the circumstances under which you made this statement, and you told us about the fact that you considered all the assertions by the prosecution as being justified, and you didn't offer any criticism. Would you please find out where the statements that you are making now deviate from the statements as were given by you then?

A. I never spoke of any euthanasia program, the interrogators used that word for the first time. I don't know whether I objected to that word, but, in effect, a program cannot be talked of - when speaking about a program I understand a project which is limited by time and which is planned carefully, and where success is expected at the end. In order to make the examination a little easier, I shall continue to use the word "program", although the expression itself is not correct.

The prosecution on the 10th of January 1947 said that this program was carried out from September 1939 until April 1945. That is not correct. It was stopped in August of 1941. The euthanasia program during that period of time dealt only with incurable mental patients. What happened up to August 1941 was not the execution of the program, as is asserted by the prosecution, - which had as its aim the systematic murder or execution of hundreds of thousands of human beings, the murder of insane persons, deformed children and people suffering of incurable

diseases, as General Taylor said in his opening statement on 21 November 1946, on page 4 of the transcript - but it was rather an attempt to solve a problem which is as old as the history of humanity itself. What happened after the stoppage of that program in 1941 has nothing at all to do with the execution of euthanasia, with perhaps a few singular exceptions.

Q. Witness, the prosecution has submitted the affidavit of a certain Leusser. This is prosecution document number 3864PS, Exhibit 367, English Document Book No. 14, page 251; German document Book Volume 14, part 3, page 170. Have you that document book before you? Document Volume 14, part 3, page 251? In this document Doctor Leusser says that the transports extended from 1940 to 1941, up until 1944. What have you to say about that?

A. In paragraph 2 of that document Dr. Leusser says and I quote: "My knowledge about the occurrences in the lunatic asylum at Ansbach during the war are based on information, which I received in the first place mostly from Dr. Schuch, but also from Frau Dr. Asam, one Dr. Priesmann, who was working at the asylum, but was removed on account of his membership to the party, and from the nursing personnel."

In other words, Leusser does not speak from his own knowledge but is speaking on the basis of knowledge he received from third parties. These third parties are, however, make entirely different statements. One of the nurses, as well as Asam and Schuch, places the time of the transfers up to the beginning of 1942. That is not quite correct in view of the clear period of time when Euthanasia stopped which can clearly be proved. It was August 1941. I remind you here of the testimony of the witnesses Mennecke and Schmidt.

Q. Mr. President, with respect to the witness Ganzer I may refer to Prosecution Document 3867-PS, Exhibit 369, English Document Book 14, page 256. German Document Book 14, part 3, page 176.

A. The statement with which we are concerned can be found in his last paragraph and I quote:

"I estimate that in all five transports of this kind were sent out from the Heil-und Pflege Anstalt, Ansbach, between the years 1940 and the beginning of 1942."

Q. Now, would you please speak about NO-246.

A. During these transfers - I don't know the wording of the decree of the 1 September 1939 which was issued by Hitler, which erroneously was designated as secret.

3. Mr. President, the decree which is just mentioned by the witness can be found in Document 630PS, Exhibit 330, English Document Book Volume 14, page 3, and German Document Book Volume 14, part 1, page 1.

A. It says in my affidavit this decree entrusted Bouhler and Brandt with the responsibility of killing people who were not capable of life. This does not correspond with the fact but it says in the decree Dr. Brandt and Reichsleiter Bouhler are charged with the responsibility of enlarging the authority of certain physicians to be designated by name in such a manner that person who, according to human judgment, are incurable can, upon most careful diagnosis of their condition of sickness, be accorded a mercy death."

Q. Now in your affidavit Paragraph 12 you also dealt with the purpose of the so-called Euthanasia Program and here some of your statements need also be elucidated.

A. In that connection I can only say that this entire paragraph, the same as paragraph 15 of my affidavit, does not originate from me but was drafted by the interrogating officer. At first I objected to that paragraph because I never really learned the true reasons of Hitler. I also stated that when Euthanasia was ordered and executed I did not represent the opinion that is contained in that paragraph. However, in view of everything I have realized since I actually held the point of view at the time of my interrogation that these could have been the true motives which moved Hitler. That is why I could be persuaded to sign my name to that paragraph the contents of which don't originate from me. That refers to paragraph 12 of my affidavit.

Q. This is to be found in Document Volume 14 and it is paragraph 12 of Brack's affidavit. I quote:

"Hitler's ultimate reason for the establishment of the Euthanasia Program in Germany was to eliminate those people confined to insane asylums and similar institutions who could no longer be of any use to the Reich. They were considered useless eaters and Hitler felt that by exterminating these so-called useless eaters, it would be possible to relieve more doctors, male and female, nurses, and other personnel, hospital beds and other facilities for use of the Armed Forces."

That is the paragraph?

A. Yes that is correct. During the interrogations I emphasized that on our part any position, any attitude as it is stated here regarding useless eaters was actually never taken. If, on the other hand, any such reasons of expediency were introduced into the debate by third parties they were almost rigidly rejected. I have already pointed out that I really need not have to resort to draw any such conclusions. I just recognized them.

Q. Now, witness, we need not revert to what the witness Lammers has said here because this really would be an argument which could only be included in the final plea. But is it not true that if Hitler had had the intention to designate these insane people as useless eaters he would have used this expression in some manner towards Lammers, too?

A. I assume with certainty that some such expression would have been used during negotiations with Lammers if any such intentions had existed at that time. I would like to point out, however, that it would have been utterly senseless to perform Euthanasia for reasons of expediency

at a time when there was a sufficient stock of nourishment and then to stop Euthanasia at a time when the events of the war required stricter measures and when lack of nourishment came about - and it is exactly in that year when Euthanasia was stopped.

Q. In that connection I submit Brack Exhibit 34 into evidence which will be Document No. 30 which is to be found in my Document Book No. 2 on page 9. This is the affidavit of Dr. Walter Schultze who was born 1 January 1894 in Hersbruck, former Ministerial Director in the Bavarian Ministry of the Interior. This is an affidavit made on 11 April 1947.

THE PRESIDENT: Will you once more give me the exhibit number that you assigned to that document?

DR. FROESCHMANN: I offer that document, Mr. President as Exhibit No. 34. This document bears the date of 11 April 1947 and was signed by Dr. Schultze. It was certified by me in the proper manner. I shall only read the following short sentences from the document. The witness says I quote: "At the end of 1939 or early in 1940 the former Bavarian Minister of the Interior and Gauleiter Adolf Wagner received an official visit by the Reichsleiter Bouhler.

"As the Chief Medical Officer of Bavaria I was asked to attend this discussion. On this occasion Bouhler officially informed Wagner of a secret ordinance of the Fuehrer. Bouhler showed Wagner the original document which had in the top left corner the swastika and the name Adolf Hitler in gold print".

I go on reading from paragraph 3:

"3. I recall the following details of this discussion:

"a) We also discussed the motives for these measures

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and felt certain that this Fuehrer ordinance would be welcomed as a measure dictated by purely ethical reasons as explained by Bouhler. The above mentioned procedure ensured that any misuse and human error was eliminated.

"4. On the strength of this discussion I was convinced and had this conviction confirmed by Wagner after Bouhlers departure, that the intentions were entirely clean and highly ethical."

"6) The expression "useless eaters" I never heard mentioned by either Bouhler or Brack, nor have I heard it elsewhere.

"Brack once asked me how it might be possible to re-employ the monies which would be saved as a result of the application of euthanasia for the benefit of curable cases of mental deficiency. I was very pleased at this question as it proved to me that it was intended to utilize such money for the benefit of the suffering community and not for other purposes in the National budget. However, I pointed out to Brack at the time that it was more important in my opinion to provide more beds for TB victims as TB was rapidly increasing to epidemic proportions and as there were exceptionally few TB sanatoria in Germany."

"7) Had I possibly had any doubts in this matter, Bouhlers personality would have reassured me that this sound and serious matter had been placed in good and proper hands, for I had known Bouhler for many years as an exceptionally fine, highly intellectual almost holy person."

I shall ask the Tribunal to take notice of the rest of the document. Witness, would you please continue with the discussion of your affidavit NO-26 as far as you think that you can raise any more objections that refer to Euthanasia.

A I would only shortly like to point to the question of the Reich Committee. From the very beginning I pointed out that this matter was dealt with in the Reich Ministry of the Interior by Dr. Linden and that I could only give very inexact information about that matter. What I can say today is essentially the result of conferences between my defense counsel and persons who had knowledge about these matters, as well as my own study of the files in this trial. According to this result, the Reich Committee for the Collection of People Suffering from Hereditary Diseases was not one of the tasks of the euthanasia program.

Q Witness, this brings you to the conclusion of your attitude regarding the deviating points in your affidavit.

Mr. President, I think that it is expedient and advisable that, at this moment, I submit to the High Tribunal the chart which had been drawn by the defendant Brack and it refers to the organization of euthanasia. It forms a part of the affidavit which Brack had made in the course of the evidence on the part of the defendant Karl Brandt, when this statement of Brack was made on the 27th of January 1947 and I incorporated it in my document book #2 as Document 28, on page 5. I offer it as Brack Exhibit #35. I have had charts made for the benefit of the prosecution and for the benefit of the Tribunal which, according to their contents, exactly correspond with the chart to be found on the wall. I ask you to use this chart when following the evidence.

Witness, in the course of the evidence concerning euthanasia we can be much briefer than we originally intended because, on the one hand, the witness Hederich and mainly, the witness Pfannmüller, have spoken about the details at great length. I think that this would be in compliance with the wishes of the Tribunal and that they would desire us to proceed in a manner where I would ask you whether you have any additional statements to make to the statements which were already made by the witnesses. Let us be as brief as possible in order not to take up too much time of the Tribunal.

Witness, you are the very man who, together with Bouhler, and by order of Bouhler, from the very beginning, has been active within euthanasia. You are the man who executed Bouhler's orders. Is it correct that, in the course of the year of 1939 - and that was already stated by the defendant Brandt - repeated applications arrived at your institute emanating from parents who asked that a mercy death should be granted to their deformed children through medical interference? Is that right?

A Yes, that is correct.

Q Furthermore, is it correct that Hitler found out about that through his Adjutant's office?

A Yes.

Q Now, what do you know about the further development of things to the extent as it was not already clarified by Pfannmüller or Hederich? I emphasize now that we are, at first, concerned with the registration of the deformed children which really the pre-history to euthanasia as it concerned insane people.

A Conti had called a committee through whom he tried to ascertain, and that as I heard from Bouhler by order of Hitler, how a basical solution could be arrived at concerning these applications. This small circle of people was called the Reich Committee for the Registration of Patients Suffering from Diseases Caused by Hereditary or Predisposition.

Q You were just saying that Conti had received the order from Hitler to call together a committee in order to bring about a basical solution of that question. Was that quite correct? Was it not rather that, at the beginning, only the known cases were to be considered and, as a result of the known cases, some medical judgment was to be formed?

DR. HOCHWALD: If the Tribunal please, I would ask Dr. Froeschmann not to put a question in such a leading way.

DR. FROESCHMANN: I am not conscious of having put a leading question.

THE PRESIDENT: Counsel may proceed. The witness may explain.

BY DR. FROESCHMANN:

A Mr. Bouhler stated clearly that Conti had received the order to search a basical solution to that problem. These cases went to various agencies and Hitler only, by accident, learned about one or another case whenever the Adjutant's office got to know about it. Conti, however, informed him that such applications arrived at various offices and, as a result, Conti received the order to search for some opportunity to register all these cases in order to enable a medical opinion to be made.

Q Witness, the witness Pfammuehler and the witness Hoderich have repeatedly mentioned the name of Dr. Linden in that connection. This Dr. Linden, as far as I can overlook the matter, seems to have played a considerable part within the framework of euthanasia. It would be expedient for you to speak somewhat about Dr. Linden and his official position because he appears in the chart in the organization of euthanasia as the Reich Plenipotentiary for Mental Institutions. May I point the Tribunal's attention to the box which can be found on the left hand side of the chart.

A This Dr. Linden was a member of the Health Department of the Reich Ministry of the Interior which was headed by Conti. I only drew him in this plan, mentioning his strictly official capacity - namely the Reich Plenipotentiary for Mental Institutions. In addition, Linden also headed the Reich Committee for the Registration of Patients with Severe Diseases Caused by Hereditary or Predisposition. This, however, was no state position; his state position was the position of Reich Plenipotentiary for Mental Institutions and as such he was drawn under the block of Conti. He was a physician. According to my recollection, he was even a psychiatrist. What his medical political aims were, I cannot say. At any rate, he had had a considerable experience in medical administration. Before having come to the Ministry of Interior he had already been active in medical administration. He, at first, was subordinate to

Frick and after 1943 was subordinated to Himmler. What his other fields of work within the Ministry of the Interior, except the Reich Plenipotentiary for Mental Institutions, I don't know. In the course of the development of the performance of euthanasia, Linden took an increasingly stronger influence in that execution. I personally knew nothing about the medical problem. I was only Bouhler's assistant. It was, however, reassuring for me to know that the Reich Ministry of the Interior had collaborated in a task which concerned it to that extent. Of course, I didn't know a number of matters which I could only find out on the basis of the documents which are available to me. If Linden was only participating in the expert questions and if he was only participating in the arrangements of the transfers, a connection between his office and the office of Tiergartenstrasse 4 has resulted. This was possible because Bouhler was in no way opposed to his aspirations for independence and the two officials Bohne and Allers were officials of the Reich Ministry of the Interior. These two officials have been entered upon this chart and can be found under the square "Organization for the Execution of Euthanasia" -- beneath that, "Public Foundations for Institutional Care -- Bohne and Allers." In view of the arrangements regarding the allocations of beds considering the air situation, Linden, on his own initiative, determined when and to what institutions they were to be transferred. This is something that Bouhler originally directed, but it was then taken over by Linden.

Q. Didn't he also designate the institutions which were taken into consideration as euthanasia institutions?

A. Yes, Linden was the only one who could designate that. He was the Reich Plenipotentiary and he had supervision over all these institutions.

Q. Very well, Witness, we already discussed that, that is a basic problem concerning deformed children; when, according to your present recollections, were these negotiations concluded within that Reich Committee?

A. I personally did not participate in these negotiations and I only know about them as a result of what Reuhler had told me. I know what the result of these negotiations was. This is a circular decree which was issued on the 18th of August 1939. This decree was not exactly published, but was sent to the individual administrative agencies. According to that date the negotiations must have been concluded around July.

Q. Witness, on the occasion of the examination of Hoderich, I already mentioned that decree, namely the decree of August 1939, is that the decree you are speaking of?

A. Yes, that is the decree according to which all nurses and institutions had the duty to report all the births of deformed children to this Reich Committee.

DR. FROESCHEN: Mr. President, unfortunately I am not in a position to submit this decree to the Tribunal, because I have not yet the supplemental volume. However, tomorrow morning I shall have that document volume, and shall then give this document an exhibit number.

Q. Witness, did you at that time gain knowledge of this decree?

A. Yes, I did.

Q. Didn't you have some peculiar feeling as a result of this decree?

A. No, I could only welcome it. As a result of this decree there was a possibility granted that all these children who had to suffer under severe physical conditions were to be registered and then

were to be helped out as far as possible. Brandt has already described one case regarding Leipzig, and I needn't mention it once more, and there was a possibility to grant mercy death to a sense in one or the other case.

Q. This duty of registration by the nurses and physicians was this to form the basis for the decision of each individual case, speaking quite generally?

A. Yes, this duty of registration was to give us the opportunity to present these cases to the Fuehrer for his decision. Of course, the Minister of the Interior would have preferred to keep the decision with its own limits, but it was determined differently.

DR. FORSCHMANN: Now we conclude our discussion about the Reich Committee and we shall now go over to the real results of the execution of euthanasia, in which Brack participated, and which has now become the subject of the indictment.

Q. Witness, up to the year 1939 did you deal with the problem of euthanasia?

A. No, up to the year 1939 I did not deal with the problem of euthanasia and my sphere of work within the Chancellory of the Fuehrer did not at all bring me in contact with any such problem. That, apart from individual cases which I have just mentioned, when parents asked for the mercy death to be granted to their deformed children, both of those applications were sent over to the Reich Ministry of the Health.

Q. When did you hear about an order by Hitler that incurable mental patients could be granted the mercy death under certain conditions?

A. I learned that and that was a complete surprise to me, at the end of July or beginning of August. This was not in connection with negotiations about the Reich Committee, but I heard it quite spontaneously from my superior Reichsleiter Bouhler, who told me one last day that Hitler had discussed that question with a closed circle and had said that he was considering the mercy death to insane people, and that Bouhler was to consider that possibility also. At that time Bouhler already said that it was Hitler's opinion that we were then concerned

with persons who were unable to live, were not happy and whose existence in this World meant a moral burden to themselves, and to the members of their families. Bouhler, I think told me on the next day that he had considered that matter, and that he had accepted the order of the Fuehrer. He asked me to tell him whether I knew anything about the problem, what my attitude was and what I thought of it.

Q. What did you tell Bouhler?

A. I at first told him quite professionally that such assignment had nothing to do with the Chancellery of the Fuehrer. That it was a purely medical matter, and it could at the best be called a matter of public hygiene, and at any rate fell within the sphere of Conti. I pointed out that Conti would be able to call a similar small committee who could discuss the question of deformed children and arrive at some decision. We, of course, didn't have any experts to do that, and we had no executive functions which would permit us to perform any such work. As far as I remember I already then pointed out that this would only bring about new conflicts with Bormann, because Conti in addition to his position as under-Secretary of State and Minister of Interior, was also simultaneously a member of the staff of Bormann. Bouhler then said that he had reported that to the Fuehrer and had pointed out especially as to the problem of Bormann. Hitler, however, had answered that he would be ready to speak to Bormann personally. Bouhler then tried to get Frick's support, because Conti in his capacity as under-Secretary of State was subordinated to Frick. His fears regarding Bormann, and also my fears, were justified because Bormann stated to Bouhler himself a few days later that the euthanasia was a matter for Conti, the Reich Health Leader, and he further said it would not be limited to incurable mental patients. Thereupon Bouhler thought that Hitler would take this assignment away from him and give it to Conti. This, however, would have meant that the entire euthanasia matter would have been transferred to Bormann's influence, which would have caused extensive mis-use. Therefore, I went to Frick and discussed these matters with Frick. Upon the advice of Frick he also made sure

of the support of Goering and Himmler,

Q. Now, Witness, we don't need to go into all these details, because it would take us much too far away. Now, let us come to the period of time when Bouhler finally received this order by Hitler?

A. I can't give you the exact period of time. I can only say this happened in a period of a few days, all these negotiations between Bouhler, Conti, Frick and Goering. At any rate Bouhler went to the Fuehrer and told him specifically he would accept this assignment in spite of his questionable incompetency. Hitler at that time replied that he desired a non-bureaucratic solution of this problem, because he didn't want an agency like the Reich Ministry of the Interior which had definite tracks after all to take over such a definite assignment. He said that the physicians themselves could not do it because they had no definite organization available. Hitler said that Bouhler himself was to create the necessary organization for that purpose. As far as it was necessary the Reich Ministry of the Interior should take over these things which already fall within its sphere of jurisdiction. That is in cases where the executive powers of the Reich Ministry of the Interior could alleviate the task of the euthanasia.

Q. Witness, did Bouhler tell you anything at that time concerning the secrecy concerning these matters?

A. I cannot remember that. However, I believe that he said from the very beginning that these entire matters had to be treated with the strictest confidence.

Q Now, witness, after Bouhler had told you about these detailed suggestions by the Fuehrer; what did you do, what was your impression?

A At first I had no idea about the extent of this assignment, no doubt I did not conceive of this entire thought to its great extent, however, after I heard the description by Bouhler about the condition of these persons, I decided to cooperate in the collaboration of that assignment. I took a number of the associates of Bouhler into confidence and asked them to cooperate.

Q Witness, you spoke to your collaborators, you spoke to Bouhler and what was the result of all these negotiations; what problem did you solve?

A The problem to which I was entirely alien was purely medical. We as party officials could not solve it in any way, we had to be clear about the following question: "How can the expert physicians be included in the solution of that problem?" Brandt was not a psychiatrist, Bouhler was not a physician. The reason for entrusting these two persons for the assignment was only because Hitler had special confidence in them for carrying the matter through correctly and properly. We now had the problem of getting experts, who were in line with the idea of Euthanasia and who were ready to cooperate as experts. Only in this manner could the problem be solved in a clean and correct manner.

Q Witness, what physicians appeared to you at that time to be suitable psychiatrists for that purpose and whom in effect did you chose?

A It is correct for you to say, whom did you actually get to know, because prior to that period of time I did not know anyone. Bouhler for instance had known Professor Heide through some former association, however, neither Bouhler nor I knew any other psychiatrists. For that reason Bouhler asked me to try and find Professor Heide's address. This is how I contacted Himmler for the first time regarding Euthanasia. There was no other way of getting to Heide, because we did

not know his address only the fact that he was a member of the SS. On this occasion, Bouhler repeated his promise of support, which I have already mentioned. Whether Grawitz had nominated some more experts, I do not know. I do know, however, that Dr. Linden had given a number of names of physicians to Bouhler. According to my recollection, six or more University professors were among the experts which Bouhler used.

Q Mr. President, at this time I shall submit my Document No. 38 from Document Book 2, page 57, that is an affidavit of Dr. Werner Kirchert, dated 29 January 1947, which the counsel for the defendant Karl Brandt has already submitted as Karl Brand Exhibit No. 15. I need not read it. It deals with the events which the witness has just described.

Please continue, witness.

A In any case from these first discussions, I remember definitely the name of Professor Nietzsche, Professor Dikrinis, who was the head of the Ordinariat at Berlin, Professor Kiehn from Jena, Dr. Schneider from Heidelberg, Dr. Falkenhausen of Kaufbeuren. Those are probably the ones who participated in the first discussions and then more experts were sworn to secrecy. The witness Pfannmueller already testified about this. They were not employed, but were on an honorary basis. From the number of these gentlemen, whom we were gradually getting to know, during the middle or beginning of August, Bouhler called a meeting in his own office, in which I and some of my associates participated.

THE PRESIDENT: Counsel, I did not understand that you assigned a number to Document No. 38; is that Exhibit No. 35?

DR. FROESCHMANN: Mr. President, I did not give it any Exhibit number, because it was my impression that since this Document has already been submitted, by my colleague, Dr. Servatius, for Karl Brandt, with the Exhibit No. 15, this Document is already in evidence. Merely so that the report will be able to follow my presentation of evidence better, I have copied it again in my Document book. If the court shall

consider it necessary for me to give this Document an Exhibit number, I shall of course be glad to do so.

THE PRESIDENT: It is not necessary, counsel, but it should be identified for the record. Do I understand this is Karl Brand Exhibit No. 15?

DR. FROESCHMANN: This is Exhibit Karl Brandt No. 15. I may remark regarding the other Kirchert affidavit in my Document Book No. 1 with the No. 33, dated 7 February 1947, that I shall not submit this affidavit and it can be struck out.

THE PRESIDENT: That is satisfactory, counsel.

BY DR. FROESCHMANN:

Q Now, witness, you know from the testimony of the witness Pfannmueller that this witness in particular, in answer to questions of the Prosecution, repeatedly spoke of the two meetings in which he participated; one meeting at which, in his opinion, there was merely an intended division of the mental institutions into two groups, while at the other meeting the group of experts are supposed to have met. In your following testimony, I ask you to consider Pfannmueller's testimony and to make it clear to the court whether there were only these two meetings dealing with the entire problem of Euthanasia, or whether in addition to these two meetings there were other meetings. I also consider it important that you tell the court absolutely frankly at what meetings you participated and what you did in detail, so that the impression will not be given that you are trying to keep anything secret?

A I can only say that of course there were many more than two such meetings and meetings of various different kinds, but it is quite impossible for me to give any figure. I don't know whether there were ten, twenty, fifteen, or twenty five. There were big meetings and small meetings, there were meetings which Reichsleiter Bouhler called directly, especially in the beginning. There were meetings merely of the experts, which Professor Heide, Professor Nietzsche or Professor

Linden called. There were all kinds of meetings at various times and various places and with various groups of people.

Q I should like to interpolate a question here, because I have been asked by one of my colleagues to shorten the case of the defense counsel somewhat; I ask you: was the defendant Dr. Blome involved in any way?

A From my own knowledge, I can confirm that Blome never attended any of the meetings which I attended and I did attend very many meetings. In any case, I know that he was never at Bouhler's office, as I would certainly have learned of that and I never heard anyone mention Blome in connection with Euthanasia. I have already said that I personally had nothing to do with him in connection with the Euthanasia program.

Q Witness, at the request of my colleague Sauter for defendant Blome, I should like to clarify something here. On the chart which was drawn up during the interrogation from the information given by you, that is, No. 203, it is No. 253, it says at the top to the left the name "Blome", apparently in connection with Dr. Conti, and indirectly in connection with the defendant Brandt. Will you briefly tell us whether that square Blome here was justified at all?

A In view of the heading, "Euthanasia Program", the addition of the name Blome is certainly not justified. I pointed this out at the interrogation and when I signed this chart that this was not justified but I was persuaded that Blome, as Deputy of the Reich Health Leader logically had to appear, but when I said that Blome had nothing to do with euthanasia, the second line was not put around the square in which Blome's name appears, and that is a plain square in contrast to the square of Conti and Linden. I believe that was how it happened. It is difficult for me to remember all of these things in detail, but that is how it happened I believe. It was because Blome had nothing to do with euthanasia.

Q Now, witness, please emphasize in your description those meetings which were important for the development of the euthanasia program, first of all, the first meeting which Bouhler called in order to discuss the problem itself and in order to find out the attitude of the doctors?

A These were small meetings and primarily the people whom I have already mentioned participated.

Q Just a moment, witness. I should like to hear from you from the very beginning when you speak of your associates, which associates you mean. One can assume

with a degree of certainty that the Prosecution and cross examination will ask these names, and even if it is not pleasant to you to mention these names, I as your defense counsel consider it my duty to ask you to state which of your associates, no matter in what respect, had something to do with the euthanasia program. Who were these associates?

A There were only four of my associates who had anything to do with euthanasia in any degree. That was my representative and later my successor, Blankenburg, then Hogener, and then Havelmann and Vorberg. These are the four whom I have put in the corrected plan. All of the other associates in the Chancellery of the Fuehrer had nothing to do with euthanasia, and to a large extent were not informed about it.

Q I should like to hear that last thing again. Within the Chancellery of the Fuehrer there was the secrecy which we shall speak about later and it was kept?

A Yes, of course, that was an order, even within my own office.

Q Then this explains the fact that the witness Hoderich from 1939 to 1940, as he said, actually knew nothing about euthanasia being dealt with in your office?

A I consider the statement absolutely true. I can only emphasize it.

Q And you, Mr. Braack, you worked with these meetings?

A Yes.

Q Did you not in private conversations with third persons say something about your activities or any hints?

A I must honestly say later I did so with a very definite intention, and later I had to deal with the film "I accuse." Of course, I told a few people who were connected with it what it was all about, but in general

I held to the secrecy very strictly.

Q Witness, in answer to my express question you gave the name of four of your associates, I want to know very briefly, did Dr. Hevelmann, what was his attitude toward the problem, was he in favor of it, was he informed about it?

A Yes.

Q Was he very much in favor of euthanasia?

A Yes, for a purely personal reason. In his own family he had had a horrible misfortune. He had a mother who for years, I don't know how many years, was suffering from cancer and couldn't die, although she wanted to die, and he was in favor of euthanasia because of this experience of his own.

Q And what about Vorberg?

A Vorberg was not so favorably inclined toward euthanasia, but he did follow the order, and since he from a business point of view had something to do with the organization of this transport company, even if it was against his will, he did follow the order.

Q Well, how about Hegener?

A Hegener was very much more open minded toward this problem because he himself was connected by marriage with an important doctor who had acquainted him with the problem and he knew Dr. Unger, as well as Hevelmann, who wrote the book, the manuscript of which I later used in preparing the film.

Q And the last one, Blankenburg?

A At first he knew even less than I did about the problem but later he warmed up to it, but I must say it was less for ethical reasons than for rational reasons. What the results were, the freeing of beds, for example, he was more interested than I. To me it made no difference whatever.

Q Now, let's go back to the meeting which Bouhler called at the beginning of August 1939. You have already told us that as far as you remember you were at this meeting, is that right?

A It is very likely I was at the first meeting. I can not imagine my not being there.

Q Well, what do you remember about this meeting?

A As I said Bouhler wanted to find out the attitude of the doctors toward the problem of the basis justification for euthanasia, which was unanimously approved by every one present. Of course, all demanded that safeguards be created. When Bouhler asked about the number of insane in Germany I remember that exactly, very different figures were given, so that we did not come to any clear idea. There were estimates between 200,000 and 600,000, but in general the number of incurable cases in the mental institutions were estimated at about thirty per-cent.

Q Witness, you have admitted that until 1939 you did not have anything to do with the problem, you did not think about it. Even more than your description this morning which gave you occasion to point out your lack of training in this line, I should like to see now how did it happen that you as a complete layman dealt with this matter. Did you try to clarify in your own mind this problem of euthanasia as an aid to die?

A First I would like to correct something. I didn't deal with the problem. I was given an order to deal with it. That, of course, I informed myself as thoroughly as I could as a layman. That was a matter of course. Immediately after the Reichsleiter told me he had received this order I visited some of the big mental institutions in Berlin and in the neighborhood of Berlin to

find out what these people looked like who are to be relieved from suffering. I think the first one I visited was Buch, which has over 3,000 beds, and I visited Goerden, and I visited two or three other institutions in and near Berlin, and what I saw there was terrible. Even I who am only a layman, find it difficult to describe it, but I can remember some of the terrible cases clearly, because as the first ones which I had ever seen in my life, they made a lasting impression. In the institution Buch I saw a woman who was thirty-eight to forty years old, approximately, who was wearing a heavy, tough shirt, and sitting in a kind of a cage on wooden shavings. She bared her teeth at people when they came near her and she was absolutely incapable of any contact. She took her food like an animal. She did indecent things with her excrement. She was constantly obscene, she was incapable of speaking, and as the nurse told me she had been in that condition for eighteen or nineteen years.

A. (continued) In the same institution I saw a child. It was a girl of three or four years of age. It was simply a torso. It had no arms, no legs, a big head, albino, red inflamed eyes. And, at that age it was not able to speak a single word yet. It was a terrible sight -- simply a body with a head and no possibility that a human being could develop from this creature. And, then Dr. Heinz in Goerden showed me a case, formerly a highly talented engineer who had built some big bridges abroad. This man had paralysis and the malaria cure was used too late. He had come to the clinic too late. He was quite stupid but on the other hand still aggressive. He had delusions of grandeur. He called silly scribbles blue prints. It was terrible to see these people. In Wurttemberg/Baden I had the opportunity to visit other institutions. I saw at least ten or twelve institutions of various kinds and saw all kinds of cases but I can't describe all of them. That would be quite impossible.

Q. I think you made a mistake before when you said you saw a psychiatrist in the institution. You meant a paralytic.

A. Yes, paralytic.

Q. Now, Mr. Brack, you have described your own impressions when you visited these institutions. Did you observe various methods of treating the insane?

A. Yes I saw the curing field and the caring field. I saw all the modern methods including therapy, electric shock, insulin, malaria antidote, etc. Then I saw the occupational therapy -- not only in the curing field but also in the caring field so that patients could be kept quiet under the necessity for working.

Q. What impression did you get of this method of occupational therapy?

A. I can say nothing about it as a layman but what was done with the incurable cases was impressive. It was destroying the dignity of human creatures, making them robots -- it was not worthy of human beings.

DR. HOCHWALD: If your Honors please, I do think this line of questioning is already exhausted. The witness has given all his reasons why he pitied these people and so on. I do not think it is material.

DR. FROESCHMANN: Mr. President, I am finished with this subject but I thought it necessary for the witness to tell us what he thought.

THE PRESIDENT: Proceed to some other question of the case.

Q. Mr. Brack, through personal observation you convinced yourself of the conditions of these patients but there was still the big question -- can I give my aid to a project which shortens the life of these patients? What did you do?

A. I read the literature in this field. First I read the standard work of Hinding-Hoehe. I didn't like it very much. I read Melzer. I also read Walther. I read Barth. I also read literary works like Thomas Morus and Unger, etc. All these things -- the total effect of all the literature as well as the personal impressions which I had in the mental institutions -- as well as what I learned in talks with old psychiatrists brought me to the idea that it was not anything bad but that it was good to help in this task if there was an order.

Q. Did you discuss these questions with your associates Hevelmann and Blankenburg, etc?

A. Yes, of course. We discussed the problem and details of the problem at great length.

Q. Mr. President, in this connection I should like to refer to by Brack Exhibit 27. That is Document 7 in Document Book 1, page 15, the affidavit of Irngard Grube, who was for many years secretary in the Chancellery of the Fuehrer and in this connection I should like to read from 2 b), only the first two sentences, and then from 4 I should like to read a little part. No. 2 b says: "Brack's most obvious characteristic was his unconditional readiness to help. Brack never refused to help anybody who asked for his assistance in an emergency. This readiness to help grew out of an absolutely decent and humane feeling. Brack tried to comprehend other people's feelings and to under-

stand them"

And then I should like to have you consider figure 4 in this connection where the witness mentions everything that the defendant has just described in detail. She says that shortly before the outbreak of the War the decree was issued by Hitler. That this order was the subject of many discussions in office II and she says: "I was present sometimes during such discussions between Brack, Hefelmann, Blankenburg and Hogenor to take down shorthand notes. I concluded from these discussions and explanations of these men that the discussions on this subject were taken very seriously by all concerned, they continued until late at night. All the aforementioned were convinced that this was a problem of the highest ethical importance. Reasons of expediency were entirely ruled out. I never heard Brack use the words "useless eaters", I can really not remember ever to have heard this word. Arguments and counter arguments were discussed in detail. The decisive factor was always Brack's frequently expressed views that these people were merely vegetating and their existence was of no value. Professor Nietzsche possessed an extensive library, which was concerned with the problem of euthanasia. Brack discussed in detail a number of these books with Nietzsche and studied some of them. The question was raised whether publications had been made concerning the progress of euthanasia in foreign countries."

I ask the court to take notice of the rest of this number 4.

Now, witness we have already heard from the witness Hederich and you have confirmed it that the issuance of the euthanasia assignment to Buhler had nothing to do with the Chancellery of the Fuehrer. What were the conclusions for Buhler there and you?

A. Some machine had to be created to carry out euthanasia. All institutions had to be registered. The patients had to be registered so that an opinion could be formed on them. Individual institutions had to be found where euthanasia could be carried out in practice, etc. In view of the great number of incurable cases of insanity a great burden on the personnel had to be expected in the beginning. That could

never be handled by the few people I had working at the Chancellery of the Fuehrer. Personnel had to be found for this purpose and an office had to be found. Buehler did this. He got rooms in the Columbus House on Potsdamer Platz and later in Tiergartenstrasse. He rented the rooms. This office was called T-4 from the number Tiergartenstrasse 4. That is where this expression comes from. This was equal in rank to KDF under Buehler. In my improved chart I have what I forgot in the first chart. -- This Party Control Commission. The three offices under Buehler are equal in rank. With the exception of myself and the associates whom I have already mentioned all the personnel at this Tiergartenstrasse 4 were working voluntarily and on their own decision. Only we four were working on orders. All others were working voluntarily on their own decision. Only we four were working on orders. All others were working on their own decision.

Q. Mr. President, in this connection I should like to refer to NO-470, Exhibit 332, English Document Book 14, page 17, German Document Book 14 - 1, page 15. This is the affidavit of Knoissler which the Prosecution has submitted and I shall read merely one sentence. Under No. 3 "In 1939 I was summoned by the Chief of Police to report on 4 January 1940 to the Ministry of the Interior, situated in the Columbus building; there a man called Blankenburg talked to our group which consisted of 22 or 23 persons."

Now the witness continues: "It was completely voluntary for those persons at the meeting to assure their cooperation."

A. The personnel were paid according to the regular rates. The funds were advanced by the NSDAP Treasurer for the Ministry of the Interior. The administration of this office was first put under Bohne and, after he left, Allers. The medical direction was first under Professor Heide, later Professor Nietzsche.

Q. One question in this connection. Did the defendant Karl Brandt have anything to do with T-4?

A. I believe that during my first interrogation I expressed myself wrongly and what my affidavit says is misleading. Karl Brandt was connected with euthanasia - he was Hitler's deputy - but he had nothing to do with T-4. He did not have any office at T-4, as I said during the interrogations, and, as far as I know, he was never at T-4. I do not believe that Brandt would have come to T-4 without first saying to me or one of my assistants, "Please go with me. I should like to look at it."

Q. Now, witness, in the meantime the committee of experts which Dr. Pfannmueller mentioned - did it deal with the medical questions which came up?

A. I don't know whether Dr. Pfannmueller's words are quite clear here. I spoke at one meeting with Bouhler but there were several at which the first problems were solved and when Bouhler gave the decisions. At these sessions Brandt was perhaps a time or two. I don't think he was present at more than one or two meetings. But there were certainly four or five such meetings with Bouhler where Dr. Linden was called upon at the end each time by Bouhler because he was a medico-political expert - because he could give very good advice, and only then, after Bouhler had determined a certain group, including Heide, Nietzsche, and Dikrinis, were the split up groups of experts formed, and Pfannmueller doubtless participated in one of these conferences of experts because he was one such expert and he mentioned this meeting. At these expert meetings the directives were discussed and set down, first in general and later corrected. The directives for forming the judgment

on the cases. I personally often attended these meetings of the experts. Of course, I could say nothing to the point but I was there and I heard what the experts were talking about.

Q. Now, at these meetings did the idea come up of sending the questionnaires to the mental institutions?

A. As far as I remember, that was settled earlier in the discussions with Bouhler and then I believe Linden and Heide appointed a committee to draw up this questionnaire and they drafted the questionnaire.

Q. Do you remember how the decision about the questionnaires, when they had been filled out, was to be reached?

A. Yes, that agrees with what I said in my affidavit. The questionnaire had to be judged by three experts. I said four before but there were really only three, and Dr. Pfannmueller was one of the experts. If three experts independently came to the same result - that is, that in this case mercy death could be accorded - then everything was transferred to a fourth photostat and came to the chief expert who received only such photostats to decide on. If his opinion agreed with the opinions of the other three, then the patients were transferred upon orders from the Ministry of the Interior.

Q. And where were they transferred? Where were the patients transferred to?

A. Patients were subsequently transferred to an observation institution. The creation of these observation institutions, however - by way of correction of my previous testimony - was not in 1939 but the beginning of 1940. These institutions were arranged at the suggestion of Professor Heide. In these observation institutions the patients were kept under observation for a period which depended on the nature of the case. If the result of the observation agreed with the judgment formed on the basis of the questionnaires, then they were sent to an euthanasia institution and the doctor in the euthanasia institution made the final decision whether he wanted to submit the patient to euthanasia or not. In any case, he had an absolutely unlimited veto right in every case,

just like every expert and chief expert in each case could put his plus, minus, or question mark on the form.

Q. Witness, we need not deal with the names of the experts, chief experts, or the names of the institutions because I can assume that the prosecution will come back to this matter and I shall not discuss who selected the doctors in the observation and euthanasia institutions, but I will go on to another question. That is, whether you know that, in the execution of the assignment of Hitler given to the defendant Brandt and Bouhler, the euthanasia doctors were given authorization to administer euthanasia after checking every thing that had been done by the experts and chief experts.

A. Yes, that was done. The euthanasia doctors were given, by Bouhler and Brandt, the necessary authorization which had been required by the Fuehrer.

Q. Do you know whether a list of these doctors was kept at T-4?

A. I have already been asked about that and I can only say I do not know, but I hardly assume so since the group of authorized doctors was so very small. There were only twelve to fifteen of them. I have been told that there must have been over three hundred fifty. I could not know that, but I did not know more than twelve or fifteen.

Q. Very well, witness. Then we have discussed the general preparatory measures for euthanasia. Briefly, at the end of this session today I should like to go into the question in regard to this whole matter - had secrecy been ordered and what effects did that have?

A. In regard to euthanasia as a whole, strict secrecy had been ordered. It had to be dealt with as top secret and the regulations, which were more stringent during the war, were that euthanasia has to be relegated to top secret. To my knowledge and my consent, no death threats were expressed, but this formulation, of course, is contained in the regulations that in case of violation of this duty of secrecy for things which are top secret the death penalty may be pronounced, but those are the general rules which were known to everyone anyhow. Besides,

Bouhler forced me to accept a pseudonym which was very embarrassing to me and seemed ridiculous. I only did so for a certain time and without making a big fuss about it I dropped it again and two of my assistants did the same thing.

Q. Now, this pseudonym was only in connection with signing documents in connection with T-4?

A. Only in connection with T-4, yes.

Q. And then, my final question on this subject. At this same time or later this secrecy led to giving special names to certain organizations, is that true?

A. Yes, secrecy was the reason why the whole organization was divided into various sub-organizations.

DR. FROESCHMANN: Mr. President, I have finished this subject of secrecy and now I come to the question of the legal basis of euthanasia. That will take some time. Perhaps this would be a good time to adjourn.

THE PRESIDENT: The Tribunal will now be in recess until 9:30 o'clock tomorrow morning.

(A recess was taken until 0930 hours, 15 May 1947.)

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NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NÜRNBERG

CASE No. 1 TRIBUNAL I

U.S. vs KARL BRANDT et al

VOLUME 21

TRANSCRIPTS

(English)

15-21 May 1947 pp. 7575-7954

Official Transcript of the American Military Tribunal in the matter of the United States of America against Karl Brandt, et al, defendants, sitting at Nuernberg, Germany, on 15 May 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the courtroom will please find their seats. The Honorable, the Judges of Military Tribunal I. Military Tribunal I is now in session. God save the United States of America and this Honorable Tribunal. There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are all present in court.

THE MARSHAL: May it please Your Honor, all the defendants are present with the exception of the defendants Gebhardt and Oberheuser, absent due to illness.

THE PRESIDENT: The Secretary General will note the presence of all the defendants in court save the defendants Gebhardt and Oberheuser, who are absent on account of illness, pursuant to certificates by the prison surgeon which will be filed with the Secretary General. These defendants will be excused pursuant to the physician's certificate, it appearing that their absence will not prejudice their case.

Counsel may proceed.

DR. FROESCHMANN (Counsel for Viktor Brack): Mr. President, it has been called to my attention that in my German Document Book 2 mistakes have been included in the mimeographing. I should like to correct them. These are in the German Document 31, Document Book 2, an extract from German Justice on page 14, paragraph 2, "Fourteen well-known church leaders had openly expressed their opinion that the bills were not in contrast to the doctrines of Christ." During mimeographing the word "not" was omitted, making the sentence read exactly the opposite of the intended meaning.

The other mistake is in Document 39 in Document Book 2. It is the affidavit of Gertrude Hallmeyer. Here it states in the original on page 62, "The Chancellery of the Fuehrer was in no contact with the Inspectorate of Concentration Camps. The Chancellery of the Fuehrer had

nothing to do with it but many requests for release of concentration camp inmates were received." This "release" (Entlassung) was changed to the word "Entlausung" which means "delousing". This, of course, gives an entirely different meaning to the word. They did not ask for delousing. These mistakes, however, are only in the German document book. Everything is correctly translated in the English.

THE PRESIDENT: I would suggest that counsel file with the Secretary General a written memorandum calling attention to these mistakes so that the Secretary General in his office may correct the original German documents on file in his office.

DR. FROESCHMANN: Yes, Your Honor.

VIKTOR BRACK - Resumed

DIRECT EXAMINATION (Continued)

BY DR. FROESCHMANN:

Q. Witness, first of all I should like to remind you that you are still under oath. Secondly, I should like to tell you that I want to finish your direct examination today, therefore, would you please make your answers as brief as possible.

A. Very well.

DR. FROESCHMANN: Mr. President, I stated yesterday that I was finished with the pertinent general questions of secrecy. Last night, on looking over my record, I discovered that I still have four minor questions on this subject to put to the witness with your approval.

BY DR. FROESCHMANN:

Q. The first question, witness, did you wonder about Bouhler's announcement that the decree was strictly secret?

A. No, I did not. From my work I was accustomed to the fact that certain things had to be kept secret, and only a certain group of people were informed of them.

Q. The second question, do you know the reasons why Hitler ordered secrecy?

A. No, I did not.

Q. The third question, what was the immediate consequence of this secrecy which was ordered?

A. This resulted in the camouflage of everything connected with euthanasia, simultaneously the camouflage of the central direction and the various organizations who were executing euthanasia.

Q. What are you thinking of; what do you mean?

A. The people working with euthanasia had to come in contact with the outside world, for example, with the institutions. They had to acquire equipment, they had to be in contact with various governmental agencies, there were legal obligations, and so forth. Someone had to bear the responsibilities for these things. The individual expert was out of the question, and it couldn't be the Chancellory of the Fuehrer either, so special organizations had to be created which in my interrogations I designated as camouflage organizations.

Q. I can recapitulate briefly from the examination so far that three such organizations were created, first, the Public Foundation for Institutional Care, which was the economic part of the organization?

A. Yes.

Q. Then, second, the Reich Working Union for Mental Institutions, what was the purpose of this organization?

A. It did the scientific work and was in contact with the mental institutions and the medical experts.

Q. And third, the Public Patient Transport Company. What was the purpose of it?

A. This organization was in charge only of the transfer of the patients.

Q. Now, briefly what was the legal form of the two organizations, the two first mentioned organizations?

A. I can't remember clearly. It was an entity and a public law. The Transport Company was a GMBH. All three organizations were able to appear in public.

Q. Then, I have finished the subject of secrecy. Mr. President, I now come to the matter of preparatory measures for euthanasia and I shall discuss the legal basis of euthanasia. Mr. President, I have taken the liberty to submit as an example - but not in order to read it into the record, merely for the legal information of the Tribunal - the opinion of a well known German university professor, Professor Dr. Karl Engisch in Heidelberg, as Document No. 34 in my Document Book II. Just as the Prosecution did with its various opinions and extracts from public law I intend to use this document merely as the basis for my final plea.

DR. HOCHWALD: If the Tribunal please, the exhibits offered by the Prosecution in this respect were official German commentaries and judgments of German Courts and such commentaries were all before the time of 1945. We wanted to put in these commentaries in order to show that Euthanasia was illegal in Germany even before that time. German judgments and judgments from German Courts and all these exhibits were objected by the Tribunal and the objection of by Dr. Froeschmann against these exhibits was sustained. Therefore I object against the admission of this legal opinion which was made at Koch for this trial and wants to solve the problem which is entirely the task of the Tribunal. It is a legal opinion. It is not a statement of facts - what Dr. Froeschmann is offering.

DR. FROESCHMANN: Mr. President, Professor Karl Engisch in Heidelberg is a declared opponent of euthanasia. I went to an opponent in the true aim of getting quite an objective opinion. I do not intend to use this opinion any way in this point. I intend to use it merely as means of orientation for the Tribunal as to the point of view of a

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German legal expert who, as I said is an opponent of these ideas and I will also use it as a basis for my final plea. I believe if I offer it only in evidence and give it an exhibit number it will be quite sufficient. I shall not mention it later, with one word.

DR. HOCHMANN: If the Tribunal please, Dr. Froeschmann told us himself that he is not using this legal opinion in evidence so I don't know why he is offering it.

THE PRESIDENT: Counsel for defense may in his argument cite any law that he desires and make any legal argument that appear to him to be sound. The weight of that argument will be for the Tribunal to determine. But such a document as I now offered as an exhibit clearly should not be admitted, as an exhibit in the case. Counsel will have the benefit of that in any other legal opinions or statements or judgments that he desires to use in his argument.

The objection of Prosecution to admission of this document is sustained.

Q. Witness, did you consider Hitler's assignment a legally valid and public law?

A. Yes. I myself and my associates, as well as all other persons who came into contact with Hitler, considered this decree a valid legal basis for the execution of Euthanasia.

Q. In your opinion did Hitler have the right to issue such a decree with binding legal force?

A. In my opinion, yes, because the head of the state who marches into Austria without consulting anyone or who reaches an agreement with Statesmen of other countries or who begins of war without consulting anyone, who even before that had settled various things by decree, no doubt had the right in this case to issue a decree which would form the legal basis.

Q. And to whom?

A. To all Germans.

Q. Did you see Hitler's handwriting from Goehler or Brandt?

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A Yes, Bouhler showed me Hitler's original handwriting and I had a photostatic copy of it in my own safe.

Q When was that

A At the end of 1939 at the earliest, possibly only early in 1940 -not the date of issue.

Q In the external form of the document by Hitler did you see anything objectionable?

A No. I saw nothing objectionable. I was not able to judge whether any prescribed form might have been violated here. I would have liked to see anyone object to a document signed by Adolf Hitler no matter what the external form of it was.

Q Witness, you have stated that you considered the decree a completely valid legal statement of Hitler with the force of law?

A Yes.

Q But in repeated discussions you have told me that you were working on the draft of law. How does this agree with what you have just said?

A Such an idea would not have occurred to me but the doctors and lawyers who were concerned in the matter held the the point of view that law had to be passed.

Q How did these doctors and lawyers explain this opinion?

A They said that Hitler's secrecy order is known to only a limited number of persons. Euthanasia, however is not a matter which can be left to the individual or the government but affects everyone. In the long run it cannot be kept secret from the public. Primarily people want to know what conditions are required for Euthanasia and what safeguards have been introduced so that there will be no misuse of it. That, of course, if possible only if a law is proclaimed with definite provisions but that does not mean that the decree itself does not appear perfectly binding.

Q Did you agree with this opinion?

A I was not able to judge. I carried out Bouhler's assignment

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and I worked on the drafting of a law. Since I didn't understand those matters myself I asked lawyers and doctors to suggest various opinions of the law.

Q And, briefly what did this law contain?

A Basically it contained all provisions which are necessary for the execution of euthanasia and practice, a very cumbersome process of judging the patients, all kinds of legal precautions which would prohibit any misuse of euthanasia from a legal or medical point of view. I remember the title now-law for granting medical aid to the incurably sick persons.

Q Was this law to put an end to all the secrecy?

A Yes, of course. That was something that we all rejected. In my institution I have already said what I personally said at the time about the secrecy. Something that I consider right I don't have to keep a secret.

Q Now I should like to interpolate a question. This draft took some time to work out didn't it?

A Yes. I was revised several times. The first draft was finished rather quickly but it was improved again and again. I assume there were ten if not more revisions.

Q Why was this law not passed?

A I don't know. I know that Bouhler brought it to Hitler's attention repeatedly. Hitler refused-he approved of the contents, but said that he didn't want it made public before the end of the war.

Q Did you learn Hitler's reason for this opinion?

A No.

Q Did Bouhler and Brandt repeatedly ask Hitler to have this law passed?

A Yes, I know of that the case of both of them. I know, as I just said, that Bouhler submitted this draft to Hitler personally and beyond that I learned from Bouhler, as well as Brandt, that they had repeatedly asked the Fuehrer to make public the law which he already knew about.

Q Is a copy of this draft available?

A I don't know. I've given you all the addresses where it might be. It was sent to various state agencies and also to other people; to church authorities, for example, because the opinion of the church was very important, but, unfortunately, no copy of this draft has been found. I have also tried to reconstruct it, but that would be too long to give all those details here.

Q Did you doubt the validity of the law because of the element of secrecy?

A No, I said before that, in many cases, the Fuehrer issued secret decrees and this did not affect the validity in any way. For example, the creation of the Ministerial Council for the Defense of the Reich. That was a secret decree with the absolute force of law.

Q Now, the decree does not speak of incurably insane, but incurably sick. That means that tuberculosis patients, cancer patients, etc., could also be subjected to euthanasia if the prerequisites required in the law were given.

A Yes, that is true, but I said before I saw the decree itself for the first time perhaps in 1939, more likely in 1940 - Bouhler showed it to me. In his instructions to me, Bouhler only spoke of the incurably insane. I never received any instruction about incurably sick persons being included in euthanasia; only incurably insane. Only cases where the mental condition had led to a complete destruction of personality and the life expectation - physical life of the insane is not of any importance in that connection.

Q According to the defendant Karl Brandt, the decree was dated back to the 1st of September 1939. Do you know why this particular date was chosen?

A No, I do not know that. Bouhler didn't tell me.

Q Witness, to conclude this subject I should like you to discuss Document No. 253, Exhibit 331 the chart which the prosecution has submitted, and your new chart of the organization of euthanasia.

Mr. President, I have submitted this as Exhibit 35 yesterday.

Witness will you please answer the following questions briefly:

Did you draw the prosecution's chart yourself?

A No, I did not draw that myself. It was done by someone else.

Q Did you make a sketch for it?

A I tried to make a sketch, but it did not succeed.

Q And what objections do you still have today to this chart insofar as you have not already mentioned them?

A First of all, the organization. Bohne and Allers office and Heyde and the transport company are directly under Brandt. Also the experts and chief experts. That is not correct. This whole organization - this whole machine was not under Karl Brandt. This can be seen from my corrected chart, what the actual subordination was. Then, neither I myself nor my associates had any supervisory relationship to the experts or the other agencies of T-4 and there was no right on our part to give instructions. The instructions came from Bouhler. Then, in this prosecution chart, the B and E institutions - the observation and euthanasia institutions were presented as being directly under the euthanasia authorities. That is not true. They were still under the Reich Ministry of Interior, as always.

Q Witness, from the chart of the prosecution I see

that the observation and euthanasia institutions were not, as you say under the organization in general, but were directly under the experts and then indirectly under T-4. Am I not right?

A. It is terribly complicated on a chart which is supposed to show organization, at the same time, functions and that is the case here. I myself do not know what these various lines are to indicate. Are they to show the course taken by the patients, or are they to show organizational subordination? As you explain it, these lines going up on the right, the observation and euthanasia institutions - if these do not represent the course of the questionnaires and the patients, but simply the authority, then these lines are wrong and your idea is correct that these institutions are supposed to be under the experts. That was not the case. These institutions continued under the authority of the Ministry of the Interior.

Q. Well, let us go on to the next point. How about the questionnaire section?

A. This does not therefore belong to the Foundation; but to the Reich Working Union for Mental Institutions. I realize that clearly on the basis of the prosecution documents when I saw that the sending out of the questionnaires to the expert, Pfannmueller, went through the Reich Working Union and that the questionnaires were sent back by him to the Reich Working Union, not to the Foundation. This again, I have considered when I corrected the chart. I have spoken about Blome yesterday. I need not say anything about that today. In the corrected plan, I believe that the confusion between organization and functions has been avoided. I have indicated, by arrows, and explained the organization and the execution of the transfers.

All other lines refer not to functions, but to subordination. But I should like to emphasize once more that such a chart never existed before and I merely had to draw it up according to the best of my knowledge and after refreshing my memory through the documents. It never existed earlier in this form or in any similar form.

Q Now, please put the chart aside.

A Witness, secrecy led to unfortunate circumstances in the execution of euthanasia and, in the last analysis, to the complaints of which the prosecution has submitted several examples, but we shall come back to this later. Now, I should like to go on to the discussion of your specific activity within euthanasia so that the Tribunal will know what your work was. And please answer this question briefly. What was the nature of your work in the framework of euthanasia?

A It is not simple to explain this work. It was very complicated. I do not intend to deny that I had something to do with it, but I shall attempt to explain how far my activity went. The T-4 was geographically, and from the organizational point of view, separate from my own office. Bouhler himself was not able to move his office to T-4. He remained in his office in Vosstrasse and people working at T-4 came to see him to report to him. If Bouhler was not there, they came to me or to one of my associates. The prosecution has used the words "liaison man" for me. This is confusing. As far as I can remember I did not raise any objection to that term at the time. Perhaps I even used it myself, but I have just realized that a liaison man must be located at the place in which he has to establish the contact with someone. I did not. I remained in Vosstrasse in the Chancellery of the Fuehrer

because I had most of my work there. Not only for these reasons, but also for other reasons, I was never so completely informed about Bouhler's ideas and the execution of euthanasia as the prosecution may assume. I continuously received instructions, decisions, orders, from Bouhler which I passed on to the people working at Tiergartenstrasse - doctors and administrative officials. It was in the nature of things, therefore, that at the beginning, especially I took care of setting up the organization and gave my aid and support. But I myself never really worked at T-4. I could not issue instructions on my own initiative either because Bouhler considered himself alone responsible for euthanasia and he always made this quite clear to me. I would never have dared to carry on independent policies here. I could never have taken that responsibility.

Q. Witness, just a brief remark. The Document No. 156 of the prosecution has been mentioned repeatedly, which the defendant Karl Brandt made Brandt Exhibit 4-A and 4-B. I should like to show you this document and ask you to answer the question, do you recognize the signature, as the witness Hederich said, of Bouhler under this document?

A. Yes, that is the signature of Bouhler.

Q. And you know the contents of this document?

A. Yes, I know of the contents. I also know the letterhead. This is the stationery that Reichsleiter Bouhler used at that time in the service of the Chancellory of the Fuehrer and NSDAP.

Q. Now, another question. Did you later learn of this specific letter of Bouhler when you talked to the Reich Ministry of Justice?

A. Yes, I learned of this letter.

Q. Then will you please put the letter aside and continue in describing your functions?

A. My right to give instructions, if I may call it that, was completely secondary. I think that covers the situation. In the course of time I had naturally become acquainted with the material. I was often present at the discussions of experts, as well as the administrative discussions. In many cases I was present officially as Bouhler's representative, so that outsiders might very well get the impression that I was the influential man in euthanasia. The witness Mennecke doubtless had this impression, but I can only emphasize that his impression is not correct. I was nothing but Bouhler's deputy, or, as the prosecution called me in its opening speech, Bouhler's assistant for these questions.

Q. Witness, from the cross examination of Dr. Hardy with the witness Mr. Pfannmueller I gather that the prosecution apparently placed great importance on whether you were ever in charge of such a meeting, whether you ever presided over such a meeting, or whether you took a solemn oath from any of the experts or other such externals. Do you deny these things or take them as a matter of course?

A. I in no way deny them. In many cases I presided over such meetings. Exactly what meetings they were I don't remember. It sounds exaggerated to say "preside" because the discussions weren't in such a form. We actually sat at a round table and at a round table there is no chairman. I certainly never took a solemn oath, but it is quite possible that in one case or another I spoke to one man or another on behalf of euthanasia, or what he learned at these meetings. I certainly do not deny these things.

Q. Now, witness, in this connection I am interested only in two specific meetings which the prosecution has cited as proof of your importance in the euthanasia program, that is, the meeting in Munich and then the meeting of the lawyers. I ask you to comment briefly on these two meetings. What was the Munich meeting about or what was the meeting of lawyers about?

A. The meeting in Munich was probably a meeting of the heads of the Gau Office for Public Health and other doctors invited by Conti. Medical questions were discussed at this meeting in general, but Conti had asked Bouhler to come to this meeting and to instruct these doctors about the decree and about the measures taken up to that time in euthanasia. Bouhler had promised to go but then was unable to and sent me in his place. I showed the decree of the Fuehrer at this meeting and I spoke briefly about the draft of the law which was being worked on.

Q. Just a minute, witness. Did the participants in this meeting in any way object to what you said or to your ideas? Later during the recess was any opposing opinion expressed?

A. When I left this meeting, I talked for half an hour or an hour with various people who had been present. Various suggestions were made about additions and improvements in the law, but no objections. I reported this to Reichleiter Bouhler and he arranged that all those who were interested would get a draft of the law in its form at the time, so that they could send in their suggestions.

Q. Now, how about the meeting of lawyers?

A. This meeting in the Ministry of Justice was a meeting of lawyers who had to discuss all sorts of questions, and it was an answer to a request from Guertner to Bouhler that Bouhler was to explain the details of euthanasia at this meeting.

DR. FROESCHMANN: Mr. President, I submit Document 36 from my Document Book 2, page 54. That is an extract from so-called German Justice, the Official Journal of German Jurisprudence, the year 1941, as Exhibit 36, and I shall quote. The book, Your Honor, from which I have taken this excerpt I obtained from the document section of the Tribunal, but as far as I am informed there have been difficulties, that when these books are given out or submitted to a court, the books are not returned to the document section soon enough. Consequently, I considered it expedient to submit merely a certified copy from this book.

MR. HOCHWALD: To offer the exhibit in this form is unusual, but it is usual in such cases that a certified copy is handed to the Tribunal and not a carbon copy, and we would like in the future to have such exhibits on the part of the defense offered to the Tribunal in this manner.

THE PRESIDENT: The preparation of the photostat copy from the page of the book is probably the better practice, and should be followed hereafter.

DR. FROESCHMANN: Very well, Your Honor. I quote from page 553, Document 36:

"On 23 and 24 April a congress of the Presidents of the District Courts of Appeal and of the General Public Prosecutors took place in Berlin under the presidency of State Secretary Dr. Schlegelberger. The presidents of the Reich Supreme Court, the People's Court, and the Reich Patent Office, as well as the Chief Reich Public Prosecutors, took part in this congress.

"The congress celebrated topical legal and administrative problems

in speeches and discussions."

A number of people are then mentioned, Brack, university professor Dr. Payde from the Chancellory of the Fuehrer. It is a certified copy. Please give the document to the General Secretary.

Q. Now, please continue, witness?

A. I attended this meeting actually as a representative of Bouhler, and just as at the meeting of doctors in Munich, I showed the people present a photostat copy, as a matter of fact, I showed them several copies of the Fuehrer's decree, so that everyone would be able to see it, and I also talked about the law which was being drafted. Why Guertner asked Bouhler to inform the various justice officials of these things can be seen from the prosecution documents. The Administration of Justice had had difficulties because of euthanasia, which I had not foreseen, but these difficulties arose because of the element of secrecy. As NO 156 shows, Bouhler told Guertner that he alone considered himself responsible for euthanasia, but then he tried by informing justice officials to dispose of these differences, and for this reason Bouhler authorized me to represent him at this meeting and inform the gentlemen.

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Q Witness, at this meeting did you hear any objections from the high justice officials from all parts of Germany, as I see from the Document?

A No, there was no objection. As far as I recall the State Secretary and acting administrator of Justice Schlegelberger.....

Q Schlegelberger?

A Yes, Schlegelberger said at the end of the meeting, now that they seen there was a legal decree of the fuchrer for these measures, they had no legal objection to the execution of Euthanasia; that is about what he said.

Q Mr. President, in this connection, I submit in my Document Book 2, Document No. 37, page 55, as exhibit 37. This is an affidavit of the former Ministerialdirector in the Reich Ministry of Justice Karl Engert, born 23 October, 1877. It is very short, but of great interest, because it shows the opinion of the influential jurists in this question to whom the lay-man Brack presented these matters:

"In approximately spring 1941 Victor Brack gave an informative lecture about Euthanasia in the Reich Ministry of Justice on behalf of Reichsleiter Bouhler, who was prevented from attending. As a foundation for the moral justification of euthanasia, Brack quoted example and pointed out the useless existence of the incurably insane. Ethical reasons, above all compassion, demanded the release of these individuals from their sufferings. There was no mention of any kind of political or war aspect for the performance of euthanasia. He talked then about a fuchrer decree to Bouhler and Brandt and dealt in full with the draft of a law, which had been submitted, or was to be submitted to Adolf Hitler. He mentioned the various provisions of this draft. I was convinced from Brack's statements that this draft law provided every guarantee for the protection of the incurably sick and insane. As far as I can remember, certain exceptions were stipulated for the performance of euthanasia, for instance persons suffering from injuries of the brain incurred during the first world war and I think foreigners were also excepted.

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"Brack's statements reassured me, because according to them, it was to be definitely assumed that a Reich Law would then be enacted in the customary form, i.e., by publication in the Reich Law Gazette. I saw no reason why any difficulties should arise."

MR. HARDY: May it please, Your Honor, in the case of Becker-Freysing, which will come before this Tribunal after the completion of the Defense of defendant Viktor Brack, the Prosecution has charged the Defendant Becker-Freysing in the Indictment under count one with Conspiracy, under count two which special responsibility for and participation in the high altitude experiments, the freezing experiments, the sea-water experiments, the epidemic jaundice experiments, and the sulfanilamide experiments, spotted fever experiments and in count three it has charged the defendant Becker-Freysing with these experiments as set forth in count two. At this time the Prosecution wishes to withdraw the charge against the defendant Becker-Freysing insofar as he was connected with the sulfanilamide experiments. If the Tribunal requests, I will submit this in writing. We will withdraw only one charge. If you want me to file a writing with the Secretary-General and comply with it.

THE PRESIDENT: The Prosecution will file its withdrawal of this charge in writing with a full statement and give counsel for the defendant Becker-Freysing a copy.

MR. HARDY: Yes Sir.

BY DR. BROESCHMANN:

Q Witness do you remember a statement by the representative of the Reichs Ministry of Justice at this meeting to the effect that the Hitler decree, which you showed to those present, was absolutely a valid, legal basis for euthanasia?

A Yes, I said that before. That was the statement of the acting Minister of Justice, state Secretary Schlegelberger, that was the highest official at that time, because Guertner had died in the meantime.

Q Then Mr. President; I have finished the subject with the defendant Brack's work in connection with euthanasia. In the examination of

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the Defendant Karl Brandt the Prosecution placed great emphasis on clarifying the question of what persons were to be effected by euthanasia. Consequently, I see myself obliged briefly to go into this question.

Witness, now we come to a subject, which is very much debated, you know that according to the decree the doctors to be appointed by Brandt and Bouhler were to have their functions extended to the point that they could grant euthanasia to incurably sick persons and you have just said that the law, which was being drafted, was to contain all provisions which had become necessary from the practice of euthanasia?

A Yes.

Q Now, the first question comes up is, and when the Prosecution asks rightly what persons were effected by this decree, were there any exceptions, provided and who determined the exception, in your examination before interrogator you oddly enough have said nothing about this. In studying the records, I observed that this important point is not mentioned at all in your affidavit, was that forgotten, what was the reason?

A I don't know. In my interrogation, I discussed these things properly. I said the foreigners, world war veterans, in this case where the war injuries were the cause of their insanity and Jews were exempted from euthanasia. A list was shown to me and I had to assume it was a transfer list from one institution to a Euthanasia Institute, on which Jews were listed.

Q Mr. President, I should like to interrupt the defendant briefly here and refer to the document. The document here just mentioned is No. 158, Exhibit 410, English Document Book, 16 page M. Please continue and get that document book. This was the document which was shown to you.

A I believe that this was the list, which I was shown, here various persons whose names indicate they are Jews, as well as various persons who were born outside of Germany are listed. It seems that I can remember very clearly that foreigners had to be exempted and that this was based on a personal order from Hitler. I was not confused, but insofar

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as the Jews are concerned, I myself began to have doubts and on the advice of the interrogators I did not insist that Jews were exempted. After seeing all the documents again and having memory refreshed, I know that Jews were exempted in the same way. I must add something that I also forgot in the interrogation. Labor victims persons injured in Industrial accidents from which insanity resulted were also exempted.

Q We will go into this in detail to make it perfectly clear.

THE PRESIDENT: Before pursuing this matter in detail, the Tribunal will be in recess

(A recess was taken)-

THE MARSHAL: All persons in the courtroom will please find their seats. The Tribunal is again in session.

THE PRESIDENT: The counsel may proceed.

BY DR. FROESCHMANN:

Q. Witness, before the recess I asked you whether foreigners were exempted from euthanasia.

A. Yes.

Q. From whom did you learn that?

A. I learned that from Bouhler, and he said that was done upon the express order of Hitler. Only Reich Germans could be subjected to euthanasia.

Q. When did you learn that?

A. I learned that during one of the first conferences where Bouhler already communicated that fact to me and to all the other participants in the conference. He later repeatedly pointed to it and demanded that everyone who was in any way concerned with the dealing of this matter, especially the department of the questionnaires, would have to be thoroughly informed about that fact.

Q. Mr. Brack, will you take that upon your oath; will you take it upon your oath that Bouhler gave you this directive and all the other participants?

A. Yes, I want to do that, and every participant will be able to confirm it.

Q. Witness, it seems somewhat peculiar to me. I may assume that Bouhler was not interested in having a questionnaire filled out about every mental patient in Germany, if a special category of patients, would not be concerned with euthanasia, is that right?

A. That is correct. It does appear that way for the outsider. It seems that it was superfluous for the department which has to fill out the questionnaires as well as for T-4.

Q. Witness, I now want to put to you Document No. 825, which is in German Document Book 14, volume 2, page 134; English Document Book 14,

page 216. I will now ask you to look at that document. There you will see a copy of the questionnaire as it was sent to all the mental institutions. On page 217 you will find a note which is to be observed when filling out the questionnaires. Such a leaflet was sent to the institutions in order to instruct them as to how this questionnaire was to be filled out, is that right?

A. Yes.

Q. This instruction note states exactly the category of patients on which questionnaires had to be filled out, is that right?

A. Yes.

Q. Now, I shall read the first sentence to you: "All patients are to be enumerated," and then follows paragraph 1, 2, and 3, which we shall skip for the moment, and then it says in paragraph 4, "Who are not of German nationality or of German blood, indicating the race and nationality." I now ask you, would you not have to change your testimony to the effect that foreigners are to be excepted from euthanasia in view of the fact that paragraph 4 says very specifically that questionnaires have to be filled out by all patients of non-German nationality?

A. No, I cannot change my testimony.

Q. I do understand that you will now insist that you were following your directive which said that all foreigners have to be excepted, but I have to find out why, as the prosecutor will have to find out why, questionnaires were at all introduced about non-Germans and secondly why questionnaires were filled out on all non-Germans, whether they specifically fell under figures 1, 2, and 3 of the instruction leaflet or not.

A. Karl Brandt, and I may say as a result of a lack of personal knowledge, had tried to answer this question giving statistical reasons. He said that the Reich Ministry of Interior was interested about the extent to which the institutions were used. But, Karl Brandt, on the other hand, only very seldom participated in this concern. He, there-

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fore, could not know why there was an obligation to fill out this questionnaire for foreigners.

A..I personally was in a position to observe the development of these questionnaires and I was present when Linden and Bohne presented them to Bouhler for approval. These questionnaires were sent to all German mental institutions through the Reich Ministry of the Interior. They were partly sent there directly, partly through the subordinate county administrations. As I saw from the document, the decisive date was the 1st of September 1939. As I said before, Himmler ordered strict secrecy to be kept. In this covering letter to the mental institution it had to be prevented that the purpose of this enumeration of the mental patients be recognised for that reason the sentence was introduced in the introductory part of that letter, which reads, "With regard to the necessity of coordinating the mental institutions through planned economy --" etc.

DR. FROESCHMANN: Mr. President, in that connection I should like to draw attention of the Tribunal to three documents which were presented by the prosecution. As I already mentioned - this is Document NO-825, and then there is one, 1696-PS, Exhibit 357, which is to be found in the English Document Book, Volume 14, page 209; in the German Document Book, Part II, page 128... And I should also like to draw your attention to the Document NO-1133, Exhibit 335, which is to be found in the English Document Book 14, page 86. These are the covering letters of which the witness is now speaking.

BY DR. FROESCHMANN:

Q. Would you please continue?

A. Even if this sentence was intended as a camouflage sentence towards these institutions, such a systemized registration naturally prevailed; however, this registration had no connection at all with Euthanasia. I shall revert to that question later, when discussing the other questionnaires. At any rate, the heads of these mental institutions which had to deal with the filling out of these questionnaires, were told by this covering letter that this is a matter for registering all the severely mentally ill patients. If the foreigners would have been excepted according to the covering letter, many heads

of the mental institutions, and many of the clerical personnel, would have asked themselves about the reason for such an exception. No practical reason could have been found which would justify foreigners being excepted. That, of course, would have opened a door to many a wild rumor. For that reason one took the reverse path in order to also register these foreign mental patients. The question regarding nationality and race was contained in every questionnaire in Germany at that time, and could not create any undue attention. For that reason it could not create any attention if, in addition to the categories which are contained therein, -- criminals and patients of certain kind -- would also include nationality and race. In that way one achieved camouflage of the exception directives, and one also avoided questions being put by outsiders just why foreigners are to be excepted.

Q. Witness, if I understand you correctly -- it was necessary for foreigners to fill out these questionnaires because, on the one hand, one wanted to keep the true reason from the head of the mental institute; and, on the other hand, one wanted to give assurance to the Berlin head office in order to safeguard these foreigners by registering them?

A. Yes, these questionnaires, after having been filled out, went back via the Ministry of the Interior to the T-4; and from there were sent to the experts. In the T-4, when dealing with these questionnaires there was the best possibility of sorting out the foreigners, and I personally convinced myself, and know, that in all cases where foreigners were reported this passage in the questionnaire was underlined with red pencil. It was sorted out and filed in a different cabinet. It wasn't even included in the photostating procedure. Through the above procedure there was even more certainty of excepting every foreigner. The same procedure was adopted with reference to those who were injured during the world war. There, of course, we had not that much certainty because they, of course, were excepted, but, on the other hand, were included in the expert procedure. In the case of a control made by Hitler, which Brandt has already described, it has actually been ascertained that in the three or four cases where the mental illness

could have been in some connection with an injury as a result of the war, were actually subjected to Euthanasia because these questionnaires were not sorted out beforehand without any expert opinion being given.

Q. Witness, it is my impression that for reasons of security this procedure was handled in a somewhat difficult way, although it could have been done much simpler.

A. No, that is not quite true. If this procedure could have been handled simpler it could not have given us much assurance. It had to be done with an absolute amount of certainty.

Q. Witness, your testimony, according to which the questionnaires about foreigners were not photostatted in the T-4 and were not sent to the expert, would you not have to change that testimony when reminding you of what Mennecke has said? Did not Mennecke say that he personally, as an expert, had filled out a number of questionnaires about non-Germans?

A. That is true... I remember Mennecke's testimony, but I can only emphasize again that the matter in which Mennecke participated is in no way connected with Euthanasia - and, really, it does not deserve the name of Euthanasia. I must emphasize again and again that Euthanasia, after August 1941, was stopped by order of Hitler. The assertion of Mennecke - and I already spoke about it yesterday where he said that he had received Himmler's orders in the year 1940 - must be incorrect. It can only concern the order of 1941. However, up to the stoppage in the year 1941 I am quite sure that no questionnaires which were handled by T-4 were photostatted and expertised.

Q. In the year 1939, what persons did you include among foreigners?

A. Among foreigners all were included who were of non-German nationality, whether they belonged to England, France, Italy, or any other country. Of course, members of such territories which were considered to have been incorporated into the German Reich at that time -- Sudetenland, Austria -- of course, were not included.

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For instance, members of the Protectorate of Bohemia and Moravia were considered to be foreigners, and in no case was any Czech subjected to euthanasia.

Q How about the Warthegau and East Prussia?

A On the basis of a State agreement they were incorporated into the German Reich in 1939 and that is why it is quite clear that they fell within the euthanasia. I cannot say, however, whether any euthanasia were carried out within these gaus. That was something for Linden to do in the Ministry of Interior.

Q In the questionnaires, as well as in the instruction leaflet, there is a question about the race of the individual. As it can be seen from the footnote some of these people also were excepted.

A I have already stated earlier that as far as I remember Jews were also excepted. This was for the reason that Hitler had said that euthanasia can only be given to German citizens because it constitutes an act of grace.

Q And for the very same reasons were Jews required to fill out these questionnaires as you already elucidated in the case of foreigners?

A The treatment of the questions was carried through in the same way in the case of Jews as was in the case of foreigners. I cannot imagine that Jews shouldn't have been excepted in the same way.

Q A little earlier you said that participants in the first World War were to be excepted from euthanasia whenever their mental illness stood in some connection with an injury which they had received from the World War. Now, considering your testimony I should like to point to Document 10-837, Exhibit 364, which is in the English Document Book 14, page 236. There you will find a list which was carefully compiled by the Prosecution - a list of 22 death notices taken from some Saxonian newspaper. In this list you will find a remark in Paragraph 3, that they are veterans of World War 1914-1917. On 4 you find he was bearer of the cross of honor for war veterans and you will find something similar in figure 5. These are participants in the World War who died at Linz and who were designated as veterans. How can you bring this fact in connection with the statement you just made?

A That is quite true what you say there, doctor. Let me say first of all that there is absolute inconsistency in the fact that Euthanasia as an act of grace could only be given to Germans and in the fact that war veterans were excepted from it. Thus the presentation of this as an act of grace seems to lose its foundation. But, for purely psychological reasons in view of the fact that a war was then going on Bouhler, after many discussions with many doctors and other persons, decided that in order to avoid any unrest among the population the participants in the first World War were to be excepted under very special conditions which I shall elucidate in a moment. This was done to avoid anyone having the suspicion that persons wounded in the present war, let us say, with brain injury could be in danger of having their lives taken under Euthanasia. However, this exclusion of first World War veterans did not exclude veterans altogether. Excluded were only veterans in whom a war wound was the cause of mental illness. Thus a man who was paralyzed, let us say, or had received a severe leg wound, was not excepted from the euthanasia because this paralysis had nothing to do with the brain injury. That is the same for persons who sustained industrial accidents. I have said that before.

Q But you haven't answered my question yet. How was it these four or five war veterans were among those who received euthanasia.

A Here it says world war veterans but there is no indication there was any mental sickness in these people that had anything to do with war injuries.

Q Now I understand what you mean. We already dealt with the exceptions. Now, of those who actually did receive euthanasia you have already said that on instructions by Bouhler euthanasia within the framework of your activity could be applied only to incurably mentally ill persons, is that true?

A Yes, that is correct.

Q The Prosecution when examining Karl Brandt asked a number of questions of him in that connection and I should like to direct the same

questions to you. The Fuehrer decree says nothing to the effect that these sick persons would die natural deaths in the course of events. Is that true?

A No, there is nothing to that effect in the decree.

Q Is it correct that a person 15 years old can be incurably ill and yet live to a ripe old age as far as you learned that from physicians.

A That is possible, yes.

Q Should euthanasia only be used with such persons as will die a natural death shortly, namely within two years, let us say?

A No, it was not so limited.

Q Now, I again put to you Document NO-825 according to which the duty of reporting is mentioned. Now, aside from point 4 all patients are to report regarding the nature of their sickness, the state of their disease if they fit the qualifications of points 1 - 3. Is that so?

A Yes.

Q Was it not also stated that persons capable of working were not to be subjected to euthanasia.

A No, there was nothing to that effect.

Q But in the questionnaire you had to say whether you were capable of work or not?

A Yes, that is so but there were certain reasons for that and certain limitations.

Q What were the limitations?

A The institutions had interests in their patients as those being used in agricultural work. They would not wish these patients to be removed from this work, after they had become used to it. And the moment when a patient can work he is still in contact with his environment. Consequently in any such case there should not have been a positive expert opinion but a negative one. Consequently it was redundant to expertize questionnaires where a person reported he was capable for work.

That stands verbatim in that formulation, namely special persons who are not actually working in agriculture or industry.

Q Witness, did this limitation apply also to the persons named under 2 and 3.

A No, it would not.

Q How do you come to that conclusion?

A On this page of instructions the word "or" appears between the list of various categories. That means that these people are to report with no regard to it that they are actually working or not unless they are suffering from one of the sicknesses listed under point 1.

Q Now let us take an example. Does a person have to report who has been in an institution for 5 years even if he is not suffering schizophrenia or any of the other diseases listed under point 1?

A Yes, he has to report.

Q Would a criminal have to report who had not been in an institution for 5 years?

A According to point 3 he had to report.

Q Now, as a last example, how about epileptics who had been in an institution for only one year, even if he did semi-skilled work, let us say he worked in the office?

A No, then in accordance with the limitations that I just mentioned he would not have to report because he was capable of working.

Q Then ability to work was of some importance in these questionnaires, wasn't it?

A It was of importance so far as the question whether you had to fill out the questionnaire, but according to #1 patients didn't have to report if they were doing work in the institution, unless that work was of a very primitive nature. They couldn't be taken away because that would destroy the economic machine in the institution.

Q Now, witness, you have heard what Pfannmueller said in this connection. Was Pfannmueller's opinion and testimony correct and does it correspond with what was in the questionnaire regarding ability to work and what you and other authorities intend to achieve by putting that question in?

.. I must say that I myself had no intention in this matter because I didn't know anything about it, but in the expert conference in which I participated I never heard anything but what Pfannmueller said here; namely, that the ability to work was a very essential part of the possibility of expertizing any case and in deciding what should happen to any particular patient. From Karl Brandt's testimony I found out that the prosecution doesn't agree with this. I can, however, pass no judgment on this, but what I have heard from the psychiatrists and they were very good, the ability to work was one of the most essential considerations in the final judgment of the patient.

Q Now, witness, I have only a few concluding questions about these questionnaires. I am sorry to trouble the Tribunal, but I have to go into this at some length because of the weight that was laid on this by the prosecution in Karl Brandt's testimony. In Document No. 825, which you have been treating now for some time, it says at the conclusion that all patients were to report who had been in institutions for more than one month. Do you have that paragraph?

.. Yes.

Q Now, does that not mean clearly that questionnaires had to be filled out and sent in regarding patients who had been in institutions for more than one year?

.. No. You could only think that if you skipped the most important word; namely, after the patient had been reported as mentally ill. First of all, after the arrival of the patient, you have to take a look at the case history, to see whether the patient is affected by numbers 1 to 4 in the questionnaire. In other words, length of illness, length of time in other institutions,

etc. Now, if these points applied, then, of course, a patient had to report even if he had only been in the institution for one month, but that stay in that institution for only one month could have been preceded by years and years of stay in other institutions. The question is, is it a new case that had just come from some psychiatric clinic. Then, usually, the considerations in points 1 to 4 are not material and, in those cases, were not important.

Q It is your opinion, then, witness, that only those patients have to be reported who fill these prerequisites in points 1 to 4. Now I point out to you Prosecution Document PS-3871, Exhibit 359, in English Document Book 14, page 223. The prosecution drew the conclusion from this document that all patients, with no regard to the form or duration of their sickness, were to be included in this. What do you have to say to that?

A That is correct, but I should like to point out that this directive of the Ministry of the Interior is dated the 10 November 1942, at a time after the euthanasia program had long been stopped. Also, please look at #3 and I quote: "For special reasons, I now lay weight on having all inmates of institutions included." That means that the Minister of the Interior had, before the 10th of November, 1942, laid no importance on having everybody included. From that time on, he did lay importance on this. Of my own knowledge, I can not say anything about this because I was at the front at that time and had been for quite a while, but I believe this has some connection with the dangers arising from the air war, and Linden was trying to get hospital space for the civilian population.

Q Witness, it is important to me to ask you in this connection whether you considered the medical requirements in the questionnaires as sufficient, but I can not ask you that

question because you are not a doctor, but, in the course of this case, there has been discussion of the necessity of personal observation of patients by specialist doctors. Can you say, as a purely factual statement, from the negotiations that you carried on - can you say whether you ever took part in such directions or observations?

.. I can not judge this, but I can say that many such suggestions were made. The first of these suggestions had as its consequence that from 1940 on the observation institutions were set up in which specially commissioned doctors had an opportunity to observe the patient personally. The next suggestion of this sort - of course, I can't tell you what doctor made this suggestion now - the next suggestion led to the fact that the questionnaire in many institutions, and particularly in institutions which were not led by certified doctors, had expert commissions right on the spot and it was under the direction of these expert commissions that the questionnaires were filled out at these institutions, also using the case history of the respective patient. So far as I can judge this as a layman it seems to me that personal observation of a patient gives the most reliable impression of his condition. Much better than a written case history would. That is the reason why I asked that the Tribunal visit a mental institution and I regret that this application was not entertained.

Q Now, a concluding question about these questionnaires. Do you have any remark to make regarding this subject?

.. I have nothing more to say about the questionnaires themselves, but I should like to say here that the number of patients subjected to euthanasia was, as compared with the number of questionnaires, something that demands

attention. The expert commission that Bouhler had to advise him estimated that there were roughly thirty per cent of all mental patients in institutions who were incurable. It can be proved from the documents at hand that there were 184,000 questionnaires that went through the expertizing process. There were that many at least. There must have been as many as 200,000 or 250,000 before euthanasia was stopped, in my opinion. This number, 184,000 is as of May. To the best of my knowledge, about 50,000 or 60,000 of incurably ill persons, as a maximum, were actually subjected to euthanasia. From this it can be seen that not even a third or a fourth of those who were reported as persons who should receive euthanasia, actually did receive it, to say nothing of that high percentage of thirty per cent considered incurable of all mental patients. This proves to me that the questionnaire procedure was absolutely certain and was very conservative in the evaluations by the experts because, as I said, only an eighth or ninth of the total of the incurably ill patients, and not one-third, were subjected to euthanasia.

Witness, in these percentages that you have just spoken about, I agree with you that the number 50,000 or 60,000 incurably mentally ill persons, whose lives were shortened through euthanasia, is true, but in the course of this trial the opinion has become current, also in the press, that there were a very large number of people who were murdered in the course of this euthanasia program. Now, this number of 50,000 to 60,000 mental cases - does that have to be brought into any proportion to any other number in order to get a correct picture of the situation? Do you understand this question?

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A. This number can only be brought into proportion with the number that runs into the millions of innocent persons who fell victim to the air terror, but this is not the time or the place to bring that up. I am told from the publications of the statistical registry that as many as 550,000 patients are in need of attention in mental institutions, and in contrast to this the number of 50,000 to 60,000 is roughly one-eight or one-ninth of that total. Against this statement there is the estimate on the part of the psychiatrists who said that at least one-third of all German mental cases would have to be considered incurable.

Q. Let us go one step further, Witness, let us consider Questionnaire No. 2, which was also put in by the Prosecution, which was also mentioned in various documents; do you know anything about questionnaire No. 2, of your personal knowledge?

A. I know that this questionnaire No. 2 was sent along at the same time. To what extent this was thought of as a camouflage measure or to what extent the Reich Minister of the Interior really wanted concrete data so that the institutions would be better run on a scientific basis, that I do not know. The ministry of the Interior will know why it sent out this questionnaire. The euthanasia organization had nothing to do with this questionnaire. I assume that the data received on the basis of these questionnaires was worked on in the Ministry of the Interior.

Q. I had originally intended to interrogate you about the proceedings before the Reich Committee. However, I consider that superfluous since Dr. Pfannmueller dealt with these proceedings at great length and also made it perfectly clear that you were never the Chief of this Reich Committee,

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but that it was Dr. Linden. Do you anything to add to Pfannmueller's testimony on this point? Is what he said correct and credible or do you have some other point of view with which you might supplement his testimony?

A. In general what Pfannmueller said was perfectly credible to me, as far as I know anything about this matter of the Reich Committee, but in a few respects I must supplement his testimony. For example, I myself in many cases showed Bouhler and Brandt the complete files of terribly ill children for their final decision, and for this reason I know that both Bouhler and Brandt in many cases had the child put aside for further observation, over and beyond the judgment passed by the actual specialist. It never happened that the expert specialist said that this child cannot be subjected to euthanasia, and that Brandt or Bouhler said no, nevertheless we will approve euthanasia for this case. That never happened, rather the experts decided that the child could be given euthanasia and Brandt and Bouhler then took the standpoint that for one reason or another, not necessarily a medical reason, this child was to be further observed and to be expertized on a year or two later. Let me add also that in the proceedings in the Reich Committee the approval of the parents had to be received and without such permission on the part of the parents the authorization was not given by Brandt or Bouhler. That Pfannmueller did not receive the authorization as he said was to be understood, because the children were sent to him as the local physician, or some other doctor had sent them on and he had already carried on the correspondence with the Minister of the Interior.

Q. Didn't you say something you didn't mean to?

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A. No, what I said was Dr. Pfannmueller received the children only later, and the local physician first had had in a way all correspondence with the Minister of the Interior that Pfannmueller would not know.

Q. Didn't the parents have to give their permission to the doctor in charge of the Amtsarz, the local doctor?

A. To the Amtsarzt.

Q. Did I understand you to say that negotiations between the Amtsarzt and Minister of the Interior and through the consent of the parents was received, and then the child was sent to Pfannmueller with permission for euthanasia?

A. Yes, let me point out also a document that was not put in evidence at least not this page of it, but the entire document 1696PS, page 357, on page 9³ of this document it can be seen that apparently through some error or through some withdrawal of consent by the parents, if this error or withdrawal of consent was discovered further proceedings were immediately interrupted.

DR. FROESCHMANN: Mr. President, the matter to which the witness is now referring is something about which I already spoke when hearing Pfannmueller. These are two documents from my document book 50 and 51. They are in Supplemental Volume No. 3, and I hope I shall receive them from the Secretary General within the next 15 minutes, and get them to the Tribunal, at which time I shall give exhibit numbers to the few documents in that volume, but I cannot do that yet, of course.

THE PRESIDENT: The Tribunal has been advised that Supplemental Book No. 3 Brack will be ready today and they will expedite it as soon as possible.

DR. FROESCHMANN: Thank you. I received that information

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already.

Q. Witness, continue please.

A. I have only to add that regarding details of the expertizing procedures at the Reich Committee I know nothing, because I was not concerned in that. I know, however, through Bouhler and through Linden that in Reich Committee matters, only first class specialists were used as psychiatric experts.

Q. Witness, I may now conclude from your statements that the correctness of the document submitted by the Prosecution concerning the registry of children you do not deny, and I am referring to the following four documents to which I should like to call the attention of the Tribunal: No. 1139, exhibit 346, English Document Book 14, page 149; then No. 1142, Exhibit 347, English Document Book 14, page 150; third, No. 1145, Exhibit 352, English Document Book 14, page 157; and, No. 1146, English Document Book 14, page 172, and with this I conclude the affair of the questionnaires and I shall now deal briefly with the documents which the Prosecution have submitted as evidence, that in spite of your statement made today, in spite of Brandt's testimony Jewish insane persons were subjected to euthanasia. By way of introduction I should like to say that there is a total of seven documents which I should like to touch upon briefly, and then indicate in each case where they were found. Witness, I shall discuss the following documents: please get them ready. No. 1131, No. 1133, No. 1135, No. 1141, No. 1143, No. 1144, No. 1310. Now, will you please comment on the transfer of Jewish insane persons indicated by these documents?

A. First of all I should like to say that document

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1136 and No. 720 may have to be mentioned also.

Q. I had intended to deal with that later witness.

A. At the time I did not learn about these transfers. I knew about them in general, just as everyone knew that Jewish patients were to be brought together. All I can say about these documents is not my knowledge from this time, but the result of my examination of these documents. This is all I can say about the various documents. No. 1310, Exhibit 337, this is in Document Vook 17, the German, on page 6.

Q In the English, it is also on page 6.

A This Document shows that the Bavarian Ministry of the Interior on 4 September 1940 reached a decision on the transfer of Jewish mental cases. They were to be transferred from various Bavarian insane asylums and assembled in the Haar Eglfing between 4 and 20 December 1940. On that day the head of the institution reported that these patients had been assembled at Eglfing, they were full-blooded Jews of Polish or German nationalities or stateless Jews. At the same time he reported to the Bavarian State Ministry of the Interior on 20 November 1940 that the patient transport corporation transferred them to a collecting center in Berlin. The list of these Jews was given in Document No. 1135, Exhibit 334.

Q Please give this document to the witness. This is in English document book 11, page 25. We received only a photostat. There on page 17, you will find a list of the Jewish patients and also on page 41 of the document book. Now, does the fact that these patients were transferred by the transfer company indicate that this was also within the frame-work of euthanasia; what do you have to say about that?

A First of all, I can say basically that the patient transport company carried out transports not only for the purpose of euthanasia, but also other transports of patients. I recall the rescue work in the east for wounded, who were transferred from hospitals in danger of air-raids, etc. This transport company, when such transports were to be carried out, received an assignment from the Ministry of the Interior and assigned a transport leader. This man had to be an experienced official, because all kinds of things could happen to such a transport during war time. He might be stuck somewhere for a considerable period of time and the patients would have to be taken care of. He also was given the local assignment by the local agency, such as for example the Bavarian Ministry of the Interior.

Q Now when the transport company took over Germans, was

there any certificate, any receipt given?

A Yes, these receipts we have here in Document NO-1135. The official of the transport company gave a certificate, such as we have here with the institute by way of a receipt and thereby he assumed the responsibility for the patients.

Q Witness, I don't have the document here, but is it true that the document says these patients are to be transferred to a Reichs institution?

A Yes, that is what it says. It says that the patients are to be transferred to a Reichs Institution.

Q Mr. President: I should like to point out that not only in Document NO-1135, which the witness is speaking about, but also the document which I mentioned earlier, NO-1133, Exhibit 335, English Document Book 14, page 86 and Document NO-1131, Exhibit 340, English Document Book 14, page 91, contains such certificates.

A Now, there is one note-worthy thing about this document. The names of the insane persons were always listed on a printed form in a numbered transport list, these lists contained the first name, the next name, the place of birth and the date of birth. It contains no reference, however, to nationalities. I pointed out earlier that the benefit of euthanasia was to be given only to German citizens. These documents, NO-1131, Exhibit

Q We have already been through that, we don't have to repeat the numbers.

A The names of the Jewish patients, however, which we are talking about here are not on the usual transport list of the transport company, but on usual typing paper. It does not list any place of birth or date of birth either, merely nationalities. One can conclude therefrom that in this case nationalities of the persons to be transferred seemed to be more important to the authorities than the date and place of birth.

Q Just a minute, witness, in this list there are 33 Germans

and 2 Poles?

A Yes.

Q And then under 13 there is a Czech citizen, whose name has been crossed out again.

A It has been crossed out here on the original document.

Q Yes, it has been crossed out.

A It says Bohemia and Moravia as citizenship and in the accompanying letter for this transport, sent to the Ministry of the Interior by the Institute Eglfing-Haar, the suggestion was made that this man Bunsol is a citizen of the Protectorate and should be sent to an institute in the Protectorate.

Q Mr. President, this covering letter is in book 17, page 6.

A In other words, the authority of the institute did not consider it permissible for a citizen of the Protectorate to be sent to the same institute as Germans and Polish Jews as this institute was simply not in the Protectorate and the institution must have received corresponding instructions. I should like also to refer to the following on the certificates given to the institution by the heads of the transports, it says expressly upon order of the Reichs Association of Mental institutions. In this letter NO-1310, the institution does not refer to an assignment of the Reichs Association, but simply to the decree of the Bavarian State Ministry of the Interior. In this case of the Jews, who were transferred, the Prosecution has not submitted any certificate by the transfer company. I assume that if such a document were in existence, it would be among the documents here.

Q Now, where did this Jewish transport go?

A That cannot be seen from this document, but from another document. I have been able to assume that Document NO-1141, Exhibit 348, Document Book 14

Q It is in the English document book on page 150.

A From this document one can see that the name Bertha Wertheimer was listed there and she died in Chelm on 3 December 1940.

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This Bertha Wertheimer, according to the file-note, was transferred there by the patient transport company. One can therefore conclude that the entire transport went to Chelm.

Q Was Bertha Wertheimer in this transport of 20 December 1940.

A I am sure that it says that. Yes, it is shown that she was also transferred on 20 December.

THE PRESIDENT: The Tribunal will now be in recess until 1:30 o'clock.

(A recess was taken until 1330 Hours.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 15 May 1947)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

VIKTOR BRACK - Resumed

DIRECT EXAMINATION (Continued)

BY DR. FROESCHLINN (Counsel for the Defendant Brack):

Q. Witness, I remind you that you are still under oath. Let us hurry and try to conclude. Witness, before the noon recess we stopped in the discussion of Document NO-1141, Exhibit 348. I asked you where the transport of September 18 - 20 went. You said that from this document NO-1141 you concluded that the transport went to Chelm. Do you have any further comment on this question?

A. From the documents 1144, Exhibit 342, Document Book 14, part I, page 57 in the German we see -

Q. In the English that is page 110.

A. - that Bertha Weiland frau, NO-1143, Exhibit 343, Document Book 14, part 2, page 65 -

Q. In the English Document Book 14, part I, page 126, - that Wilhelm Neumann, Albert Tillmann, Gertrud Oppenheimer, Bertha Heimann, Sophie Wiesengrund and Albert Froehlich, were sent according to the before mentioned decree of the Bavarian Ministry of the Interior, on the 20th of September 1940, from the institution Eglfing. Of these, Gertrud Oppenheimer is contained in the list on page 17 of Document NO-1135, number 9. And the list of the Document Book 12, part III, NO-720, Exhibit 366, page 163.

Q. This document NO-720 is in the English Document Book 14 on page 243.

A. The other names are not contained in this list, but are in the lists previously mentioned. I do not know, but

I conclude it from these documents, that on the 20th of September 1940 there were other transports leaving Eglfing-Haar. We have no lists of them, at least they have not been submitted. I must conclude that a transport went to Chelm on this day; that in Chelm there was an observation or euthanasia institution is completely unknown to me and I certainly would have learned it, because I knew the names of the six euthanasia institutions. The assumption of the prosecution, that the persons who were removed from Eglfing-Haar on 20 September 1940, the 191 Jewish men and women were subjected to euthanasia, is incorrect and is refuted by what I just explained.

Q. Witness, you remember that the witness, Dr. Pfannmueller said that he learned later that these Jewish insane patients were sent to Lublin. You have already said that you knew nothing whatever about all these matters, that only now from examining the documents you have reached these conclusions. It is almost superfluous to ask, did you know then the name Lublin. Do you know that Jewish insane patients were sent there?

A. No, I know nothing of that.

DR. FROESCHMANN: Mr. President, I have covered the documents submitted by the prosecution dealing with what persons were effected by euthanasia. Now I come to the final subject of the so-called euthanasia program and I shall deal in outline only with the course and the stopping of euthanasia.

BY DR. FROESCHMANN:

Q. Witness, you have already said that the questionnaires received were sent to T-4 and that they separated those referring to foreigners. These questionnaires were not photostated and were not sent to the experts, that only the remaining questionnaires, that is, those which did not refer

to foreigners and Jews, were photostated and sent to the experts.

I need not go into the details that were given by the witness Pfannmueller concerning the filling out and the judging of the questionnaires. I had originally intended, as in the case of Pfannmueller, to show you one or two questionnaires, not for you to judge them from the medical point of view but from the purely administrative point of view. I believe, however, that this matter has been cleared up so thoroughly that the prosecution will see no cause in cross examination to deal with the subject, and, consequently, I shall not need to show you the questionnaires which I have filled out by Dr. Pfannmueller. I shall merely ask, you heard the testimony of Doctor Pfannmueller concerning the judging of the questionnaires, the plus or minus sign, or question mark. Do you have anything to add to this testimony?

A No, I have nothing to add. The explanation of the witness Pfannmueller was quite thorough.

Q And is it correct that the cases designated as positive, that is by a "plus" by the chief expert, were sent to Linden's office, and that Linden's office ordered the transfer of these patients to an observation institution by orders to the transport company?

A Yes, that is true.

Q Do you know whether the doctor in charge after the period of observation submitted a report?

A I don't know how that was managed I only know that the Chief Experts were in constant contact with authorized doctors in the observation institutions concerning the selection of the patients under observation there.

Q Is it true again that after the period of observation Linden's office again issued instructions to the transport company and thus arranged for the transfer of the patients to a euthanasia institution?

A Yes, I mentioned that briefly yesterday.

Q Is it true that at the same time a photostat of the opinion of the chief expert was sent to the euthanasia institution?

A In each case a photostat was sent to the euthanasia institution because when the people arrived the photostat had to be compared with the personal data and the case history.

Q I can conclude then that the case history and personal files were also sent to the euthanasia doctor?

A Yes, of course, he needed them for the final opinion of the patient. He would not have been able to see that from the condition of the patient alone. He needed the case history.

Q And now to conclude this subject, I ask you whether you can confirm what the witness, Dr. Pfannmueller has said, that the euthanasia doctor who united everything in his hands, who had the patient, the case history, the personal records, and the final medical decision as to whether this patient was to be subjected to euthanasia, or whether he was to be returned to an observation institution or to his original institution, is that correct?

A The final responsibility lay with the executing doctor who had an absolutely unlimited veto right.

Q Now, Mr. Brack, since I have dealt with this chapter thoroughly with you, I can assume that as this morning you did not doubt the report on children contained in the documents, you will also not wish

to deny the correctness of the documents submitted by the Prosecution concerning the transfer of insane persons from the fall of 1939 until August 1941?

A I cannot deny the accuracy of these documents.

Q For the information of the Tribunal and of the Prosecution I remark that the documents which the defendant does not wish to contest are the following seven documents which I shall read briefly:

NO. 1133, Exhibit 335, English Document Book 14, page 86; NO-1131, Exhibit 340, document book 14, page 93; NO. 1132, Exhibit 341, English Document Book 14, page 100; NO-1134, Exhibit 344, English document book 14, page 136; NO. 817, Exhibit 368, English document book 14, page 254; NO. 827, Exhibit 375, English document book 14, page 269, and the final document is NO. 826, Exhibit No. 356, English document book No. 14, page 208. Mr. Brack, the same answer which you have just given me concerning the transfer of insane no doubt applies also to the documents concerning the sending of questionnaires to the experts and sending them back to the Reich Working Union?

A Yes, I do not deny their accuracy.

Q I am speaking here only of two documents which I should like to bring to the attention of the Tribunal. These are NO. 1129, Exhibit 354, English Document Book 14, page 179, and No. 1130, Exhibit 355, English document book 14, page 188, witness, concerning document NO. 1136, Exhibit 345, of which the defense counsel has only a photostatic copy and which I was unable to find in the English document book. Do you wish to make any modification? Do you have the document?

A Yes, I have it. Yes, the Prosecutor apparently by mistake said that 1857 patients were removed from the Eelfing-Haar institution on one day and that report is an error on the part of the prosecution, because this number 1857 appearing in column 4 of the document is the total of all patients removed from Eelfing-Haar. This is from the document itself and this column 4 contains the total of the individual figures given in column 3.

Q Mr. President, I consider this statement important only because the Prosecution and the Tribunal might come to the mistaken impression that on one day from one institution nearly 2000 insane persons were transferred. That would, of course, throw a very peculiar light on the testimony of the witness Pfannmueller, which otherwise at least in my opinion is quite credible. The Prosecution has just kindly brought to my attention that document No. 1136 is in the English document book 14, on page 147. Witness, I conclude the questions about the documents of Pfannmueller. Now in the execution of euthanasia a number of abuses arose which lead to applications and complaints from various private persons and authorities. Will you please comment on how these complaints were dealt with and also tell us about what complaints you learned of, especially the ones which were submitted by the Prosecution.

Q It is a matter of course that when a number like fifty to sixty thousand persons were subjected to euthanasia, a new cause of death could not be invented for each individual. There aren't that many causes of death, but because of the secrecy the true cause of death could not be given to the relatives and it was unavoidable that in certain areas such as in Wurttemberg where the population are very much inter-related, announcements with the same cause of death might be received more than once by the same family. These things, regrettable as they were, were the necessary consequence of the secrecy, which we disliked, and the relatives in part were able to check up on these things immediately. I remember the very regrettable case when the cause of death was given as appendicitis although the appendix had been removed long before that. I cannot doubt the accuracy of the documents submitted by the Prosecution in this respect.

Q Mr. President, there are three documents concerned here, No. 828, Exhibit 361, English document book 14, page 228, also PS 628, Exhibit 362, English document book 14, page 233 and No. 840, Exhibit 363 in the English document book 14, page 235. Please continue witness.

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A I cannot deny that euthanasia under the execution of euthanasia gradually became an open secret, and thus, many parts of the population developed a feeling of legal insecurity. This is especially clear, in the matter of the Head of the Institution Statte, that is No. 520, exhibit 347, in document book 14, part 3 page 199, in the German. In this letter to the Reich Minister of Justice, Dr. Schleich speaks of this feeling of legal insecurity.

Q Mr. President, the document which the defendant just mentioned is in the English document book 14, page 267.

A It is equally regrettable that expedient measures were often taken -- purely technical measures, such as in transport, transfers, as shown by document D 906, exhibit 376, in document book 14, part 3 page 192.

Q English document book 14, page 271.

A And from document NO. 665, exhibit 378, document book 14, part 3 page 218.

Q English document book 14 page 296--

A But one must not forget that is as is generally the case, with such matters, secrecy caused wild rumors that these rumors continued to grow. One of these documents, for example, contains the completely untrue assertion that two urns were sent to some relatives--that is only not true, but this case which created a great sensation at the time, had to be investigated very carefully at the time on order of Buehler, and it was found that it was absolutely untrue and that the relatives concerned had considered the package of values which were sent to them after death as urn, and was not unpacked, and when the urn arrived the rumor spread that they had received two urns.

Q Witness, I should like to interrupt for a moment. We need not go into great detail on the individual shortcomings with the documents now. You have stated that these things were as disagreeable to you and Buehler, and others concerned as to any one, and that wild rumors arose which gave rise to assertion that people were being murdered, indiscrimi-

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nately, But now, I should like to know from you what position Buehler took to these complaints caused by these unfortunate circumstances?

A Buehler wanted all such complaints shown to himself, personally, as far as possible. That was not always possible, but in general that happened. To see how carefully these things were dealt with can be seen by the fact that Dr. Schumann, who, as head of euthanasia institution at that time, asked for instructions as to what he was to say to a complaint he had in regard to two sisters who had died. This letter is not in the German document book. It was asked on 13 January 1947, to No. 906, exhibit 367, document book 1c, part 3, pages 191 - 216- in the English document book 1h, page 271. This letter shows that Hevelmann, one of my associates, was interested in this complaints, that was on Buehler's instructions and that is also shown by the same document, that Dr. Linden answered this letter and took care of the matter.

Q How were these complaints dealt with? Please distinguish between complaints from Government agencies and complaints from Church authorities?

A Complaints from private persons were not sent to the Tiergartenstrasse 4, which was not known, but they were sent to Euthanasia Institutions. If the Director and personnel of these Institutions could not settle the matter satisfactorily, then it was sent on to T-4 with a request for a decision; then it was a simple matter, they took care of it or if it was something complicated or basic, it was reported to the Reichsleiter Buehler. Complaints from official agencies, for example, authorities of justice, no matter where they were sent, were always passed on to the Reichsleiter Buehler, we took care of them or gave the necessary instructions. For example, complaints sent to the Reich Ministry of Justice, as we learned later, were sent first to the Reich Chancellery and from there to the Ministry of Interior, and only from there the Ministry of Interior, did Buehler learn about them. That was changed when Buehler concluded an agreement with Guenther, that these matters were to be turned over to him directly.

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Q Mr. President, the complaints by the Justice officials are summed up in eight documents. I shall again list them for the information of the Tribunal. They are:

PS 626, exhibit 381, English Document book 15, page 8 PS 622, exhibit 384, English document book 15, page 12, No. 836, exhibit 385, English document book 15, page 17 PS 618, exhibit 386, English document book 15 page 20, No 838, exhibit 388, English document book, 15, page 28, No, 844, exhibit 389, English document book 15 page 31, No, 845, exhibit 390, English document book 15, page 34, and PS 681, exhibit 397, English document book 15, page 51.

A Complaints from the church, Protestant as well as the Catholic church could not be dealt with because of a basic instruction of Hitler's but had to be turned over to the Reich Chancellery. These complaints of Catholic Church leaders led to a detailed discussion between the representative of the Catholic Church, Bishop Vinken and because of the opposing view of Hitler in this question, no agreement was reached at that time between the Ministry of Interior and the Catholic Church. Bouh;er tried very hard to reach some adjustments and took advantages of this turn to speak to Hitler and tried to have the law passed, but again, Hitler refused. And I personally believe that the failure of these attempts to reach an agreement with the Catholic Church was the reason why Hitler ordered the step in August 1941.

Q Mr. President: the complaint of the Church authorities are contained in six documents, which I shall list for the information of the Tribunal, No. 189, exhibit 398, English document book 15, page 56 second No 115 exhibit 407, English document book 15, page 157, third No. 623, exhibit 400, English document book 15, page 157, No. 846, exhibit 401, English document book 15, page 158, PS 615, exhibit 402, English document book 15, page 166, and PS 616, exhibit 403, English document book 15, page 168.

Witness, what happened in August 1941, when Euthanasia was stopped?

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A The news of the order of Hitler to stop was transmittal by Brandt. In response to this order I informed Tiergartenstrasse, 4, immediately, probably Prof. Nietsche and Allers in this case, and I saw to it that all euthanasia institutions, and all euthanasia doctors learned of this order of Hitler. As soon as the order was received Euthanasia stopped completely. After some time Bouhler learned that no early resumption of Euthanasia was to be expected and he returned to euthanasia institutions to their owners, and the superfluous personnel were either to their former positions, or were dismissed.

DR. FROESCHMANN: Dr. President, I have completed the evidence in regard to the so-called Euthanasia program by examining the defendant Brack. In this connection, the documents which I have so far, all that remains is to submit one document that I forgot to submit this morning when I was speaking of the legality of Hitler's decree. That is Document 35, in my Document Book 12, on page 52, which I offer as Brack Exhibit No. 38. This is the affidavit of Dr. Werner Best, of the 18th of February, 1947, which is certified by me. The witness Best in this affidavit states, on the base of his superior knowledge that a Fuehrer decree or a Fuehrer order was regarded at all times as law, and that he had the power, to change, or to repeal any law, he pointed out that the Reich Cabinet had not been meeting for a long time, and that a law had developed this way so that, not only the government people, but the general population, were convinced that Hitler had the right to issue such decrees.

Now I come to the final chapter of my case. That is, the Euthanasia problem as seen from the point of view of the defendant toward this problem-because it is my opinion that the motives of the defendant may have decisive influence on the question of whether he actually committed some offense, in the judgment of the tribunal - I believe that this evidence which I shall attempt to make very brief cannot be denied the defendant.

Witness, you have, very thoroughly, discussed with me all points,

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of the Euthanasia program. I have already asked you once, how it happened that you, as a man who had never had anything to do with such things before, and were a simple administrative official of Bouhler, considered yourself justified in collaborating in Euthanasia as a problem. I do not want any repetitions, any points that you have already discussed you may leave them out. I have gathered from your testimony that you realized that the problem was, first of all, a medical problem, and that legal considerations were involved, that complaints count from the churches - objections made from the point of view of religion, and that these complaints concerned the humane point of view. From these four points of view: legal, medical, theological, and humanitarian, ... I want to ask you a very few questions. At that time.. I emphasize "at that time"...did you think about these questions?

A Of course, I thought about these questions at that time. You yourself, in the examination of witnesses, have asked questions designated to illuminate this point of view, - but at the very beginning I would like to say that I, in my way of thinking, and my simple training am in no position to answer questions on the intellectual level of the witness Prof. Weizsaecker. I ask you to take this into consideration.

Q I should be glad to do so and keep my question simple, and on the level that a layman can understand. You have already said that according to the development of the German legal state from 1933 to 1939 you had no doubt of Hitler's authority to issue decrees, orders, with the force of law. Is that correct?

A Yes.

Q In your opinion, can a state issue a law to the effect, that incurably insane persons can be given a mercy death -- that is, that life may be shortened?

A I said this morning that first I had no worries at all about the legal possibilities. First of all, I am not a lawyer, in the second place I considered the decree perfectly legal. Later, I heard from jurists, and read the writings of Binding-Wachse, and Ebermayer, and I

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was convinced that a state has the right to pass such a law. And I remember at that time having read that some states in the United States, were said to have such an Euthanasia law. I remember only the name Nebraska. In England there are several societies trying to have a Euthanasia law passed, and in Switzerland too, such efforts have been going on for about twenty years.

DR. PROESCHMANN: Mr. President, I offer as evidence of the correctness of the statement just made by the defendant, from my document book, 2, Document 32, on page 16, "Euthanasia in England" - that is an article of the year 1936 concerning the opinion of the British public at that time.

MR. HOCHWALD: The prosecution objects to the admission of this document. First of all it is immaterial, what has been spoken, in 1936 in England, has nothing to do with the case before the trial. In the second place, this document is by no means an information from a British source. It is just something which was published in a German official organ; but I cannot see who translated it, who edited it, who gave a personal opinion on it. I do not know whether that is what was said in England, really. Germany was in 1936, under the Hitler regime, The official publications were governed by propaganda, and I am unable to say that what is said to have happened in England, really happened in England. This is by no means an English publication.

DR. PROESCHMANN: Mr. President, we Germans are of course, dependent on the publications given to us by the competent authorities. I point out that this is a work called, "German Justice" - administration of justice and legal policy, which was also an official paper, issued by the Reich Minister of Justice, Dr. Guertner, not by Schlegelberger. Then on the basis of reports received from English newspapers, this publication points out that in England there were efforts, discussions, meetings, and so forth. Precisely because of its year of publication, 1936, a time when there was yet no idea of Euthanasia in Germany, it seems to me essential to confirm the testimony of the witness Brack, by

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the fact that three years before there existed similar efforts in other countries. Therefore, I ask that the objection of the prosecution not be upheld.

JUDGE SEBRING: Witness, your attorney had referred to Brack Exhibit No. 32, appearing on page 16 of the Brack Document Book II, in English. Are you familiar with that exhibit?

A Yes.

JUDGE SEBRING: When is the first time the text matter that appears in Brack Document No. 32 came to your attention?

A This is the first time that I received the document. From my studies of literature which I spoke of at the beginning of my testimony, but from what individual pieces of literature I do not recall, I know the writings of Lord Moneyham who was the representative of such a movement. I know that in England such bills have got as far as Parliament and in my pre-interrogation I stated, and Prosecution will have to corroborate this, that I brought his attention to the English efforts in the question of Euthanasia. I did that at a time that I have not had the opportunity since then to see this document.

THE PRESIDENT: The objection to this being offered in evidence is sustained. The document will not be received in evidence.

BY DR. FROESCHMANN:

Q Then, I shall dispense with putting in Document 31 in Document Book II which is an article from the Times.

A I beg your pardon, I thought the President decided the document was accepted in evidence.

THE PRESIDENT: Objection was sustained. The document will not be received in evidence.

BY DR. FROESCHMANN:

Q Witness, you just answered in the affirmative the question that, in your opinion, the State has the right to pass laws that incurable mentally ill persons shall be given a mercy death. Did you assume the same in Hitler's case?

A Yes. Hitler was Chief of State in Germany. I spoke about that this morning and I should assume that Hitler knew of this basic work by Binding-Hoche and concurred in their opinion, and arrogated to him-

self the right to make ethical grounds and reason for this decree:

Q When a Chief of State gathers all the powers of the State into his own hands can, in your opinion, a Chief of State that is not a government consisting, that is to say, of many persons but one single Chief of State, decide what is right and what is wrong?

A Yes. That is the same situation that exists in any absolute monarchy where the king decides unilaterally what is right and what is wrong.

Q Now there is an ethical standard that stands above all States. Should not a Chief of State take regard for this ethical world order when deciding what is right and what is wrong?

A Yes, he should, but opinion is divided about the justifiability of Euthanasia in the whole world and it cannot be said that euthanasia is repudiated by the majority of humanity; nor can it be said that it is accepted by the majority in Germany. At any rate it could be assumed that a large part of the population shared that opinion and for very concrete reasons. I should like to assume that the majority of the group believed in the justifiability of the measure and this was justification for the Chief of State passing such a law.

Q Then, so far as you can judge, from the legal point of view did you have misgivings about the directive, the entry, and the implementation of this decree and did you believe that you were not acting in anything that was illegal?

A I believed in the absolute justifiability of that decree for euthanasia and was firmly convinced of its legal justification.

Q Witness, you are not yourself a doctor but you are the son of a doctor and you have discussed the problem of euthanasia with many doctors, how did you yourself see the problem of euthanasia from the point of view of medical professional ethics?

A As a layman and non-doctor, I really can say nothing about that. On the basis of literature and of conversations with doctors I could only form my own opinion about that matter. Regarding medical

ethics I cannot testify even if there is any such thing as special medical ethics at all and if not a part of ethics as a whole. Certainly a doctor should see as his highest goal the aid for the patient and the effort to save the patient's life. This obligation and effort on the part of the doctor must not, however, be exaggerated. These efforts and this obligation find their natural limitations where thereapy is no longer possible and when the further existence of such a patient is of no real significance.

Q You wish to assume the conception of euthanasia for incurable patients as a whole?

A I must say frankly that after I have thought about this euthanasia problem I thought of it only in connection with incurable mentally ill persons and my answers have related only to that particular field.

Q Then, I see from your answers that you see a difference euthanasia for incurable mentally ill persons and euthanasia for persons who have incurable physical illness. Now let me ask this quite generally in the case of an insane person, is not his will to live broken against his will?

A It is possible that an insane person will retains a spark or will to live but every other living being has the same. The question of the case in an insane person is whether he is living a life that is dignified or unworthy to be lived.

Q Then what do you think should be done with such a life that is not worthy of being lived?

A The incurable mentally ill person, so far as I have seen and observed such persons myself, is from the point of view of a mentally healthy person a seriously suffering and hopelessly lost creature. He is simply a wretched remainder of what was once a whole man. In the opinion of psychiatric science and in the opinion of philosophers there are differences of opinion as to whether soul and spirit have actually vanished or whether they have been only concealed by the illness. How-

ever, on the whole, these creatures are persons who have lost the last remnant of contact with real life.

Q What is your opinion about the relations between the physician and the mentally ill persons under his care?

A The life of the insane person has, for himself and for his relatives, lost all purpose, and consists only of pain and misery. Just as the soul belongs in the helping hands of the priest, so the body belongs in the helping hands of the physician. Only so can the sick person really be assisted. In that case, however, this means for the doctor that his duties, particularly in view of the person's spiritual state - it is his duty to free the person from his unworthy condition or, - I might even say, - from his prison.

Q In your opinion, what considerations should move the doctor to recommend euthanasia?

A The motives would have to be purely medical and could only be an act of philanthropy toward the patient. I should like to say that he makes himself the vehicle of a more exalted love of and respect for humanity. There must be no material motives.

Q If jurists grant a certain legal right for doctors to commit euthanasia, how should they treat this matter?

A If the patient is really hopelessly incurable, that cannot be decided by a judge, only by the doctor, and it is only such conditions that come into question in the question of euthanasia....

THE PRESIDENT: (Interrupting): Counsel, it seems to the Tribunal that the witness has stated his philosophical ideas at sufficient extent, unless you have one or two more definite questions along that line.

BY DR. FROESCHMANN:

Q Could not the doctor err?

A As Dr. Pfammüller has already said, "to err is human." For me, as a layman, the expert's and specialist's scrutiny and observation of the patient had to suffice.

Q Witness, you have heard of complaints on the part of the church, and moreover, you were reared as a Catholic. Was it known in 1939 that...

THE PRESIDENT: (Interrupting): Counsel, I think further examination along these general lines is not enlightening to the Tribunal. Have you any other questions along more direct lines to propound to the witness?

DR. FROESCHMANN: Mr. President, I wished only to ask the witness whether, in treating this problem, he had religious misgivings and whether the religious misgivings that were expressed to him by others were taken into his consideration. That was the purpose of this question.

THE PRESIDENT: You may ask the witness that question.

BY DR. FROESCHMANN :

Q Witness, you have heard of the objections of Church. I remind you particularly of the applications by the Bishops of Cologne, Paderborn and Munich, who insisted that the sanctity of human life must, as divine law, under all circumstances, be observed. Now, I ask you, did you concern yourself with this problem and how, very briefly, did you justify the fact that euthanasia was nevertheless carried out?

A From the religious point of view, killing is, in itself, not an evil act. It depends what the reasons for it are. Under some circumstances, the reason for the killing can make a good act of the killing. An unjustified killing will not meet with approval in the eyes of God. Just as He gave life, He can also take it away through humans. The Fifth Commandment "Thou shalt never kill" but simply says "Thou shalt not kill". In certain specific cases, for instance, in war, in the executing of capital sentences, and lately, the killing of an unborn child to save the life of the mother, these are all cases of a special sort, and it is a question whether a killing is justified or not, depending on the specific case.

Q Did you ever discuss these questions more elaborately with Catholic theologians?

THE PRESIDENT: Counsel, the Tribunal finds no profit in these further questions along this line, unless you have some more definite practical questions to propound.

BY DR. FROESCHMANN:

Q Then I shall turn to the last chapter which must be treated solely from the point of view of the prosecution. The prosecution charges you that, by participating in the euthanasia program, you committed crimes

against humanity. Now, from the point of view of humanity, what do you have to say to this charge by the prosecution?

A The word "humanity" means a heartfelt participation in the sufferings of others. Sympathy and helpful actions arise from this feeling of humaneness. Now, all of these feelings apply in the case of euthanasia.

Q You have frequently used the words "sympathy for the patient" in your testimony. Sympathy with a sick person, was this one of the points of view that moved you to participate in the euthanasia program and made you affirm the purpose from the ethical point of view?

A For me, sympathy for the sick person was the decisive consideration that decided whether or not I affirmed the principle of euthanasia.

Q Did you consider it correct and decent from the human point of view to spare sick persons long years behind walls, or did you consider it more worthy to shorten this life through a mercy death?

A I saw this not only as humanely unworthy, but as heartless, to leave these poor creatures for years and years behind walls. That is not living any longer - what they were doing in there.

Q And now the last question. You said before that the insane person is still a man who might yet have a certain will to live. This will to live is broken by what the doctor undertakes in euthanasia. Now, at the time that these things were going on, did you have some notions in your mind about this will to live?

A When one saw these sick persons one could readily see that there was no will to live in them, but one had to remember that at one time these people had been healthy and had a will of their own and this, their former will, had to be the basis for the decision whether euthanasia was to be used in the case or not. No healthy person, when he sees these wretched creatures, would wish to become such a person himself, and what we want for ourselves I believe we can assume is, a wish also on the part of the sick person were he as he was formerly, healthy, so that he could

form a healthy judgment. If the sick patient was in a position to recognize the situation in which he finds himself, he himself would beg to that condition shortened. However, the nature of the disease prevents him from doing that. These were all the various considerations that led me to affirm the principle of euthanasia.

Q And you drew what conclusion from these considerations?

A I decided that these people should be released from their tormented condition.

Q Now, one last question. This was your point of view which we have treated here in a somewhat abridge form. Did these thoughts move you deeply at that time?

A Yes, of course; they did because it is no trivial matter to work on a matter, even if you are ordered to, when it is a matter of life and death for persons who used to be healthy, but I have just told you why I believed that I was justified in this, morally as well as legally, and because these thoughts moved me so greatly I attempted to make these thoughts available to the public as a whole; and it was from these considerations that the film "I Accuse" was made. One of my associates, on my incentive, pursued the idea of persuading Hitler to do away with this secrecy once these matters became a matter of general discussion and to publish the contents of the law regarding euthanasia. For this purpose, with Bouhler's approval, I got in touch with a film company. I received a manuscript which, to be sure, could not be used in that form but could be revised. The film company recommended a good director Herr Liebeneinon to me and I asked him to be of assistance in drawing up the book for this film in such a way as to make it public discussion so that one could then clearly decide whether we had pursued a correct path or whether Hitler had issued a false order. The success of the film, not only in foreign countries because of its artistic quality, but also within Germany, proved to me that the majority of people are in favor of euthanasia and that only a few, due their own convictions, reject it. This film "I Accuse", as I was later told by the film company

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was the film that was most frequently played of all those they had produced. The letters that reached the film company regarding this film, I asked for from the film company; more than 90% of them were enthusiastically in favor and only a few were against it.

Q Witness, one last question, did you sum up your thoughts in the final words of the film spoken by the defendant Dr. Heidt in the film, were those thoughts that he spoke yours?

A Yes. We were, unfortunately, not able to get hold of the scenario. Otherwise we could have showed it to the Court.

DR. FROESCHMANN: Mr. President, I intend now to put in one last affidavit from Supplementary Document Book No. 3, Document 46, page 1. However, I greatly fear that Supplementary Volume 3 is still not in the hands of the Tribunal. I just hear that it is not yet ready.

THE PRESIDENT: The book is not yet ready, but counsel may offer the document when the book is before the Tribunal. That right will be reserved to him.

DR. FROESCHMANN: Then in this connection I offer Brack Exhibit 39, the affidavit of Liebensiner, 28th of April 1947, signed by him on that date.

THE PRESIDENT: Counsel, in what document book is that exhibit to be found?

DR. FROESCHMANN: That is in Supplementary Volume Book 3 on page 1. I offer it as Brack Document 46.

MR. HOCHWALD: Counsel, that is the document book which is lacking. We do not have that document book.

DR. FROESCHMANN: Yes, I understand the President to say I might put it in now.

THE PRESIDENT: I said I reserved the right to you to put it in when the document is prepared.

DR. FROESCHMANN: Let me say briefly that this document describes the negotiations between the defendant Brack and the director at that time. When the Tribunal has this supplementary Document Book I shall return to this document and ask that the right to do so may be reserved to me.

THE PRESIDENT: Yes Counsel. And if you desire to do so you

may then examine the defendant upon this document. It is not your fault that the document is not here now and every right corrected with that will be preserved to you until this document book is ready and before the Tribunal.

DR. FROESCHMANN: Thank you.

Q Witness, one last question. You have heard the point of view expressed by the Court. Speaking in your own defense now then what do you say as to the unjustifiability of the charge of the participation in the euthanasia program; were you guilty of crimes against humanity?

A In my actions and in my attitude the definitive consideration was pity for the sick person. The patient was to be helped --

THE PRESIDENT: Counsel, I am at loss to interrupt you. I don't want to curb the witness, but the witness has been over this ground again and again, and in your brief and in your final argument you will have the opportunity to go over these things, and at the close of the case the witness himself may make a statement.

DR. FROESCHMANN: Mr. President, I simply wanted in conclusion to have an answer to my question from him whether he believes that the way in which euthanasia was carried out and the methods used in killing millions of human beings, whether the knowledge of these things had any effect of his attitude toward euthanasia. I simply want to know what his reaction was to that. That is my last question.

THE PRESIDENT: The witness may have three minutes to express that.

A (continued) I don't even want three minutes. I feel that the charge of inhumane activity on my part because I took part in euthanasia, I feel that this is unjustified because euthanasia in the form that I have described is something that has nothing to do with what others did in misusing euthanasia.

DR. FROESCHMANN: Mr. President, no further questions.

THE PRESIDENT: The Tribunal has some questions to propound to the witness.

BY JUDGE SEERING:

Q Witness, when adult persons were selected for euthanasia and sent by the transport to euthanasia stations for that purpose by what methods were the mercy deaths given?

A The patients went to a euthanasia institution after the written formalities were done which I need not repeat here, namely physical examination, comparison of the files, etc. Then the patients were lead to a gas chamber and there were killed by the gas carbon monoxide (CO) by the doctor.

Q Where was that carbon monoxide obtained, by what process?

A It was in a compressed gas contained, such as compressed oxygen or atzethylen is kept in for welding a big container.

Q And these people were placed in this chamber in groups, I suppose, and then the monoxide was turned into the chambers?

A Perhaps I better describe this in some detail; Bouhler's basic requirement was that the killing should not only be painless, but also should be unnoticeable. For this reason, the photographing of the patients which was only done for scientific reasons was done before they entered the chamber, so that the patients were completely diverted, and then they were lead into the gas room which they were told was a shower room. They were then in groups of perhaps 20 or 30. They were gassed by the doctor in charge.

Q Have you ever been present when a mercy death was accorded to these people by that process?

A Yes, I had to, because Bouhler wanted a report whether things were being done according to his orders and in a dignified and not brutal fashion.

Q And you found from your inspection and witnessing these ceremonies, you saw that they were being done in accordance with Bouhler's orders, in a dignified and painless sort of way?

A Yes, but let me say I was already convinced that the method was painless, but I saw also that the method made it unnoticeable to

the patient that he was about to be killed. There were benches and chairs in the chamber. What happened after a few minutes, after the gas was let in, the patient became sleepy and tired and after a few minutes they were dead. They simply went to sleep without even knowing that they were going to sleep and that was one of the most essential requirements.

Q When was the first time that you witnessed one of these procedures?

A The first time was on the occasion of an experiment with four such patients. I think it must have been December 1939 or January 1940. I know that there was snow on the ground at the time. That is why I remember these months. Bouhler, Conti, and I don't know who else, there were a few other doctors for the first time saw this being done, and on the basis of this experiment Hitler decided that only carbon monoxide was to be used for killing the patients.

Q Well now, before or after that time had you tried any other gasses or any other means of administering Euthanasia to these people?

A No, we - and by that I mean Bouhler's organization - never used any other gas or other means.

Q You found the carbon monoxide quite satisfactory, so you never had to resort to any other means?

A Yes, you can put it that way.

Q Now, where was it that these four people were accorded the privilege of a mercy death in December, 1939 or 1940?

A That was in the first Euthanasia station in Brandenburg.

Q And who were the subjects that were used for that experiment?

A That was four mentally incurable ill persons.

Q Do you know what institution they came from?

A No, that I don't know.

Q Were they men or women?

A Men.

Q All men. What were their ages, were they young men, middle aged men or elderly men; how would you classify them?

A I really don't remember that.

Q What can you say in regard to their nationality; do you know anything about that?

A They must have been Germans, they could not be anything but Germans, because according to regulations only German mentally ill persons were used in Euthanasia.

Q And you say Hitler was there?

A No, Hitler was not there. Bouhler was there.

Q Bouhler?

A Bouhler was there, Conti was there and I believe Brandt.

Q Karl Brandt?

A Yes, Karl Brandt.

Q Do you remember any of the other defendants who were there?

A Of the defendants here, certainly none was present excepting myself.

Q Well, then you remember that you, Bouhler, Conti and Karl Brandt were there; now do you remember any of the other gentlemen there at the time?

A Yes, I said there were some more doctors there, but none of the defendants here.

Q Dr. Pfannmueller, perhaps?

A No, Dr. Pfannmueller was certainly not there. They must have been Berlin doctors.

Q When after December of 1939 or January of 1940 was it that you again witnessed a Euthanasia procedure?

A I should say that in the course of the year of 1940 in all the Euthanasia institutions existing at that time, I personally assured myself that the Euthanasia was being correctly carried out once or twice, but I believe I recollect that the Institute Hadamar was only set up in 1941 and in that year I did not see Euthanasia being carried out, that would eliminate the Institute Hadamar.

Q The Institute at Hadamar, I think you said there were five other stations?

A Yes, there were six altogether.

Q So that during the year 1940, you assured yourself that each of the five stations on perhaps one, two or perhaps more visits that the procedure, insisted upon by Bouhler, was being carried out in a humane manner, in a painless manner by carbon monoxide?

A Completely unnoticeable.

Q And now who were the people....let me put it this way; the first time at Brandenburg there were four people, all men?

A Yes.

Q Now, can you remember on your subsequent visits in 1940 to the other Euthanasia stations who the people were; men or women?

A Both, sometimes men and sometimes women.

Q And what can you say in regard to their nationality?

A I can only say that those were only Germans, because I am perfectly convinced that Bouhler's regulations, which rested on an order

from Hitler, namely that no foreigners were to be given Euthanasia, were observed strictly by all the Euthanasia institutions.

Q Where were these stations located, witness?

A I don't understand what you mean, where they were?

Q In what part of Germany or in what part of Poland, or in what part of Czecho Slovakia, in what part of the Protectorate of Bohemia-Moravia, in what part of Denmark, in what Part of Holland, in what part of France and in what part of Europe were these stations located?

A Now I understand you correctly. The first one was in Brandenburg on the Havel in the neighborhood of Berlin about 70 or 80 kilometers away. The next was the Institute Grafeneck, that was in Wurttemberg. Another institution was Sonnenstein and that is near Pirna near Dresden. There was the Institute Hartheim which was near Linz on the Danube which was in Austria. Then there was the Institute Bernburg on the Saale River near Dessau. The Institute Hadamar is in Hessen.

Q Were any of these stations located in that portion of Poland, which was occupied by the Germans in military occupation?

A No.

Q And the six stations you have just named were all the stations known to you that existed; there were just six?

A Those were the only ones, yes.

Q Witness, can you approximate the population of Germany as it existed in the year of 1939 or the year of 1940? Were there some fifty or sixty million people?

A No, roughly eighty to eighty five million.

Q Now by that when you say eighty to eighty five million, you include the entire German Reich, including Austria, the Sudetenland and the occupied territory?

A Austria and the Sudetenland but not the occupied territory.

Q And you estimate roughly there were eighty five million people?

A Yes.

Q Of that eighty five million, how many Jews would you say were living in Germany at the time who were German nationals?

A Maybe two or three million.

Q You are talking now about the Greater German Reich, including Austria and the Sudetenland?

A Yes.

Q You estimate there were between two or three million who were German nationals?

A Roughly, yes.

Q Now with two or three million German Jews amalgamated into the German population of eighty five million people, who were German nationals, explain, if you will, to the Tribunal why it was that the German Jews were excluded from the Euthanasia program, if as you say it was a salutary program according to people the privilege of a mercy death for taking them out of their misery; why was it that the German Jews were not included in that program?

A I have already said that. As Bouhler explained it, the philanthropic act of Euthanasia should be granted only to Germans.

Q I understand that, but I thought you said at that time there were between two and three million Germans in Germany, German citizens who were Jews?

A Yes, that is so.

Q Why were they not included in the program, if the privilege of the program was going to be accorded to all Germans?

A The reason possibly lies in the fact that the Government did not want to grant this philanthropic act to the Jews.

Q They wanted to grant this philanthropic act to all Aryan Germans, but did not want to grant it to German Jews and they did not want to grant this philanthropic act to German soldiers of the first war, who had received mental injuries growing out of their war wounds; is that correct?

A As I have already said, that is a great inconsistency in this procedure and we often protested, however, considerations of a military and psychological nature determined that.

Q Thank you.

THE PRESIDENT: Counsel, the Tribunal has now received supplemental document book three. Counsel in the morning session, after the Tribunal propounds a few more questions to the witness, you may offer the documents in that book before the Tribunal.

The Tribunal will be in recess until 9:30 o'clock tomorrow morning.

(The Tribunal adjourned at 1535 Hours until 0930 Hours, 16 May 1947).

1947
16 May-1-1-1-Foster (Int. Von Schon)
Court No. I.

Official Transcript of the American Military
Tribunal in the matter of the United States
of America, against Karl Brandt, et al,
defendants, sitting at Nurnberg, Germany,
on 16 May 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their
seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United
States of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants
are all present in court.

THE MARSHAL: May it please Your Honor, all the defendants
are present in the court with the exception of the Defendants Gebhardt
and Oberheuser, absent due to illness.

THE PRESIDENT: The Secretary-General will note for the record
the presence of all the defendants in court save the Defendants Gebhardt
and Oberheuser. The Tribunal has certificates from the prison surgeon
certifying that Defendants Gebhardt and Oberheuser are unable to attend
court on account of illness. Pursuant to these certificates, these de-
fendants will be excused from attendance before the Tribunal today, it
appearing their absence will not prejudice their case.

The Secretary-General will file the medical certificates.

The Tribunal has some further questions to propound to the
witness.

VICTOR BRACK - Resumed

EXAMINATION BY THE COURT (Continued)

BY JUDGE SEHRING:

Q Witness, I think you said yesterday afternoon that these
six euthanasia stations were located at Bernberg, Brandenburg, Hadamar,
Hartheim, Grafeneck and Sonnenstein, is that correct?

A Yes, that is correct.

Q When were the gas chambers at these euthanasia stations built?

A When the institutions were set up as euthanasia institutions.

Q Can you remember the approximate dates?

A No, I cannot remember the dates. I just know the years when the institutions became euthanasia institutions -- approximately. I know that Grafeneck and Brandenburg were the first institutions, the first to become euthanasia institutions. It began at the end of 1939, at the earliest, the beginning of 1940, at the latest. I might say in the early summer of 1940 Sonnenstein and Hartheim were set up. In the early summer or in the spring. And the institution at Bernburg was set up in the fall or winter of 1940. Hadamar, in the winter or spring of 1941. This is as accurate as I can give it.

Q You said the winter or spring of 1941. Do you mean the winter of 1940 or the spring of 1941? You said the winter or spring of 1941.

A If I say winter '41, I mean January '41, but it might have been March too, I don't know.

Q And you think that Hadamar was the last one that was set up?

A I am quite certain that Hadamar was the last one.

Q Now, of what materials were these gas chambers built? Were they movable gas chambers very much like the low pressure chambers that Professor Dr. Ruff talked about, or were they something that were built permanently into the camp or installation?

A No special gas chamber was built. A room suitable in the planning of the hospital was used, a room attached to the reception ward, and the room where the insane persons were taken, where they were kept. That was made into a gas chamber. It was sealed, it was given special doors and windows, and then a few meters of gas pipe were laid, some kind of pipe with holes in it. Outside of this room there was a bottle, a compressed bottle, with the necessary apparatus, necessary

instruments, a pressure gauge, etc.

Q Now what department had the responsibility for constructing or building these gas chambers, what department of the party or of the government?

A No office of the party. I don't understand the question.

Q Somebody had to build these chambers. Who gave the orders and who had the responsibility of building them, was that your department?

A The orders, I assume, were given by the head of the institution but I don't know who actually gave the orders.

Q In other words, were these chambers not build according to some specifications, plans and specifications?

A I can't imagine that, every chamber was different. I saw several of them.

Q Do you know what department gave the order for having the chambers built? Was that your department under Bouhler?

A No, that was Bouhler himself.

Q And he gave the order to the various heads of institutions to install this chamber, is that correct?

A Yes.

Q Now, how would the heads of each of these institutions know how to install a gas chamber unless there were certain plans and specifications given to them?

A. I never saw any such plan. I don't know of any.

Q. Would you know how to go out and build a gas chamber unless some engineer or planner had told you? Certainly I wouldn't.

A. I don't know whether I would know it either. Presumably he called on a mechanic.

Q. That's what I'm trying to say. What mechanic or engineer or group of engineers were responsible for seeing that these gas chambers were built so that they would do the job they were supposed to do?

A. There was certainly not a group of engineers. I presume that there was somebody at the institutions who had enough technical ability to do it. I don't know.

Q. Then, so far as you know, some one at one of these institutions would be told by Buehler to construct a gas chamber and he would call - the head of the institution then would call on some one, you don't know whom, to go out and build the chamber? Is that correct?

A. That is how I imagine it.

Q. Well, wouldn't it make considerable difference whether the chamber was to be constructed for euthanasia by carbon monoxide or by some other means? Wouldn't there have to be some technical information available to the head of the institution so that he could give directions to his mechanic to build the thing to do the thing it was supposed to do?

A. I must say honestly I really don't know anything about that. I can't judge.

Q. Do you know whether or not any department of the government, under Buehler, or under Brandt or under anybody else, was responsible for seeing that the gas apparatus was installed properly?

A. I don't know, but I don't believe so because I would probably have heard of it.

Q. How large were these gas chambers?

A. They were of different sizes. It was simply an adjoining room.

I can't remember whether they were 4 x 5 meters, or 5 x 6 meters. Simply normal sized rooms, but I can't say the exact size. It was too long ago. I can't remember.

Q. Were they as large as this court room?

A. No, they were just normal rooms.

Q. Well, a man of your intelligence must have some idea about the size of these rooms. The assertion "normal size" doesn't mean anything in particular.

A. By that I mean the size of the normal room in a normal house. I didn't mean an assembly room or a cell either. I meant a room, but I can't say the size exactly because I really don't know it. It might have been 4 x 5 meters, or 5 x 6 meters, or $3\frac{1}{2}$ x $4\frac{1}{2}$, but I really don't know. I didn't pay much attention to it.

Q. Have you ever visited a concentration camp or a military camp or any kind?

A. I visited a concentration camp, and I was once in a military camp as a soldier.

Q. Have you ever seen a shower room or shower bath built into a camp of that kind where the inmates of concentration camps, or where soldiers in a military barracks, can take showers?

A. Yes, I have. In my own barracks.

Q. And would you say that this euthanasia room at the various institutions was about that dimension?

A. I think it was much smaller.

Q. Well, perhaps we can get at it this way. I thought perhaps you know something about the mechanical construction that I supposed everybody knew something about. This room of yours that you talk about, how many people would it accommodate?

A. Yesterday I said that, according to my estimate, it might have been twenty-five or thirty people.

Q. And that is still your estimate today? I remembered yesterday

that you said that, and that is still your estimate today, that it could comfortably take care of twenty-five or thirty people?

A. Yes, that's my estimate.

Q. Now, the carbon monoxide gas that was used for the purpose of euthanasia where did it come from? I know you said yesterday that it came out of tubes very much like oxygen came in, but where did the tubes come from? Do you know?

A. I don't know. They were the normal steel containers that can be seen everywhere.

Q. Do you know how they reached the camp?

A. That I don't know.

Q. Do you know whether any department of the government was responsible for furnishing the gas to the camp?

A. No, they were probably bought.

Q. You think then that perhaps the superintendent of the institution, if he wanted some carbon monoxide gas, would just walk downtown and walk into a store and buy a steel tube of it and put it under his arm and carry it on back to the camp; pay for it out of his pocket?

A. No, not out of his own pocket but through the institution. The institutions bought it, I mean.

Q. Do you know from what sources the institution bought it?

A. Yes. All the funds came from the Reich Ministry of the Interior. They were advanced to him by the Party treasurer.

Q. Well, now, at that time, wasn't virtually everything in Germany of a critical nature on some sort of priority? Do you understand what I mean?

A. No.

Q. Would not the diversion of this carbon monoxide in tubes to the various institutions have to be given a priority rating and approved by some one or by some department in the government and thus

be made available to the hospitals?

Don't you understand what I mean?

A. Yes, I understand. I have no idea, but I don't believe so.

Why?

Q. What was done with the bodies of these people after mercy deaths were given?

A. When the room had been cleared of gas again then people came in with a stretcher and took the bodies into an adjoining room and then the doctor examined them to determine whether they were dead.

Q. Then what happened to the bodies?

A. When the doctor had ascertained death, he freed the bodies for burning and then they were burned.

Q. After he had freed the bodies, had determined that they were dead, they were then cremated? Is that correct?

A. Yes.

Q. There was a crematory built for every one of these institutions?

A. Yes, crematoriums were built in the institutions.

Q. Do you know whether or not - what department or agency, either under the government, that is, the Reich Government, or under the superintendent of the various institutions, was responsible for this detail of cremation?

A. I don't understand. Buehler ordered the cremating. Buehler ordered, on principle, that the bodies were to be cremated after death. There was no office for that.

Q. Was there any report made to anyone of the fact that certain people, who had been selected for euthanasia, had finally arrived at these institutions, had actually been accorded the privilege of mercy deaths and then had been cremated?

A. No, I know nothing about that.

Q. No records were kept at all?

A. Oh, I thought you said reports. Now you mean records?

Q. I don't care what you call it. There must have been a report or record of some kind kept of these people. Was there?

A. Yes, of course. Not only the case histories, but the personal data of the individual patients, were collected at the euthanasia institution and there the death records were added to them and whatever else there was. In my direct examination I pointed out that there were announcements to the agencies concerned, for example, the guardianship court. These files were all sent to T-4.

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Q. They were finally sent to Tiergarten Strasse 4?

A. Yes.

Q. Isn't it true that only in that way could an accurate record or report of this program be made?

A. I didn't understand whether this fact created accurate records about the people, or whether records were kept?

Q. Records were kept, were they not, of this entire transaction of each individual from the time he was expertized?

A. Yes.

Q. Until finally he was cremated?

A. Yes.

Q. And those records were filled with T-4?

A. Yes, they were kept there.

Q. Now, I believe you said that these euthanasia chambers were built to resemble shower rooms?

A. Yes, that's how I remember it.

Q. And the only people that were accorded euthanasia were people who were incurably insane, I think you said?

A. Yes.

Q. These were people who, as you put it, on ethical grounds, did not have the mental capacity either to consent or to resist the decision to grant them euthanasia, and that consequently as you viewed it, it was a humane procedure to accord them a mercy death; is that correct, did I understand you correctly?

A. Yes.

Q. Now, were these people, the ones whom you saw, so insane as not to understand where they were or what was going on around them?

A. I can only say that of course I am not a doctor and not in a position to judge the condition of such a

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patient, but when I was at such institutions I myself saw that the patients, inasfar as they were able to walk, went into these chambers or rooms where they were told to go without any objection and sat down on the benches there or lay down and were quite quiet.

How far they could realize where they were, I don't know, but I do know they were not in any worried, but perfectly calm. Bouhler had ordered that the doctors were to arrange it so that the patients would not realize what was being done to them.

Q. And that was the reason that the gas chambers were constructed to resemble shower rooms, I suppose?

A. Yes.

Q. And these people thought that they were going in to take a shower bath?

A. If any of them had any power of reasoning, he no doubt thought that.

Q. Well now, were they taken into the shower rooms with their clothes on, or were they nude?

A. No, they were nude.

Q. In every case?

A. Whenever I saw it, yes.

Q. And you said, I believe, yesterday that you witnessed perhaps some 10 or 12 or 15 or 20 occasions when groups were accorded mercy deaths?

A. No. I said that I was at each of the institutions, with the exception of Hadamar, at least once, perhaps twice.

Q. And on each occasion did you witness the according of a mercy death to a group?

A. Yes.

Q. And I believe you said yesterday that some of these

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groups were adults, that some groups were men, other groups were women, and that on some occasions the groups were made up of both men and women, is that correct?

A. No, I apparently did not express myself clearly. They were either men or women, but I saw both.

Q. And you think perhaps you saw as many as 20 to 30 comfortably accommodated in the chamber?

A. Yes, quite comfortably. There was plenty of room.

BY THE PRESIDENT:

Q. Witness, will you please state again briefly the reasons assigned in these various meetings which you attended for the establishment of this euthanasia idea?

A. There were various reasons. The first meetings which were called by Bouhler were not meetings of the experts. Bouhler was there, and doctors, and jurists or administrative officials, whom Bouhler called as a council of experts in order to determine what was to be done.

Q. I don't want you to go into detail, but tell me the reasons that were assigned at the various meetings for the establishment of this idea?

A. At the meeting of experts the experts were asked to discuss questions of evaluating the questionnaires, purely medical questions; how the various diseases had to be judged, and so forth.

Q. But at these meetings, what reasons were advanced in favor of or against the establishment of euthanasia as a practice in Germany at that time; I don't mean the mechanical details of operation, but the reasons for or against the establishment of the practice; were there any?

A. Of course the justification for euthanasia was discussed, but, as far as I can remember, only by the participants in the meeting recognizing the need for it.

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Q. What reasons did they give for recognizing the need for it?

A. Different people had different reasons. A doctor has medical reasons, and a layman like Bouhler, for example, has reasons of a purely humane nature.

Q. Well, what were these reasons that were advanced besides that of a humane nature?

A. I don't know any other reasons.

Q. The only basis, then that you heard mentioned as a foundation for the establishment of euthanasia was simply the humane idea that it would benefit the insane people, is that correct?

A. Yes.

Q. You heard no other reason advanced at all.

A. I did not hear any other reasons.

Q. Was it ever suggested that it was advisable as a war measure?

A. No, nobody suggested that.

Q. Had you ever heard of the idea or of the practice of the idea before it was first suggested as you have testified; when was it you first heard of this program?

A. When Bouhler told me about it.

Q. About what date was that?

A. That was in the summer of 1939, either July or August.

Q. Had you ever heard of euthanasia before that time?

A. No, I had heard nothing about euthanasia before that.

Q. Why was it to be a secret operation?

A. I don't know. Hitler had ordered that.

Q. Did you hear anyone state any reasons for his having ordered it to be a secret operation?

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A. I heard only assumptions. Everyone had a different assumption.

Q. What were those assumptions?

A. Some said it was because of the Church, others said it was because of foreign politics, others said the population had to be educated to the idea gradually and it could not be made public suddenly, but Bouhler never told me - and perhaps he didn't even know - what the real reason was why Hitler wanted it secret.

Q. At these meetings, did you hear any of what you call assumptions as to the reason for establishing the program other than that to benefit the insane people?

A. No, such reasons were not discussed.

Q If the sole object of the euthanasia practice was for the benefit of the people, of the insane people, why did they exempt the operation of the decree war veterans whose insanity was due to a war injury; did you hear anyone explain that?

A Bouhler said that. War had broken out in the meantime, and Bouhler said that for war psychological reasons, one could not include include war veterans whose insanity was due to war injuries.

Q Did he say why, if it was for the benefit of the sufferer?

A That was to their disadvantage, but for psychological reasons this step was taken.

Q What psychological reasons?

A I don't know how I should say it.

Q Try.

A The fact that in the war which had begun there would again be wounded with brain injuries and injuries which might make them insane could make the relatives, if they learned about euthanasia, worry about their own relatives who were wounded and would become insane. They would feel that they too might be subjected to euthanasia. Since these relatives did not fear the long duration and the terrible condition of insanity, since they did not know it from their own experience they would have an entirely different idea of euthanasia than the people who had been under this impression for years or for decades. This was more or less the explanation which Bouhler gave at the time, but I can only give you the general sense of it.

Q But the exemption of one suffering a war injury which caused the insanity extended to those persons who were wounded in the first war in 1914 - 1915; did it not?

A No, to all of them.

Q But it did include the wounded of the first World War of 1914, '15, '16; did it not?

A Yes.

Q They had then been suffering from insanity for many years; had they not?

A Yes.

Q But it was concluded to exempt them from this method of administering a mercy death?

A Yes.

Q Was it considered that the relatives of an insane person, whose insanity was not caused by a war wound, would welcome the idea of administering to that insane person a mercy death; would the objection be limited only to relatives of war veterans?

A I cannot judge that. I acted according to Bouhler's instructions. I never thought of the matter in that way.

Q Did you think there would be any difference in the feeling of the relatives of an insane person toward administering that person a mercy death, whether that person were insane from disease or from a war wound would there be any difference in the feeling of the relatives?

A According to the mentality of the time and the impression of the war which had just started, I consider it possible, but I really cannot judge.

Q The order to establish euthanasia was signed by Hitler; was it not?

A Yes, by Hitler.

Q That was considered sufficient authority to proceed and act under the decree?

A Yes, it was considered sufficient.

Q Was there any limitation whatsoever upon the authority of Hitler to sign a decree ordering anything he might happen to wish?

A I don't believe that there was any limitation on Hitler, since he was the chief of the state, but that is a legal question which I cannot answer correctly.

Q I am asking you for your opinion, witness; I understand you are not a lawyer. You know of no limitation upon his authority or power?

A As chief of the state, it seem to me that Hitler was authorized

to sign any legal order. As I said yesterday, he started the war, he ordered the invasion of Austria.

Q You said his authority to sign a legal order; what do you mean by a legal order.

A What I just said, he could sign orders which had the force of law.

Q That any order he signed, then, did have the force of law?

A Yes.

Q Who issued the order to stop the administration of euthanasia?

A It came from him.

Q Was that a written decree?

A I received this order orally.

Q That is the order to cease the operation euthanasia?

A Yes. I received it orally.

Q Do you know whether there was a written order to suspend euthanasia?

A I don't know.

Q From whom did you receive the information or the direction to stop the administration of euthanasia?

A I don't remember; it could only have been Bouhler or Brandt.

Q When was that?

A In August of 1941.

Q Where did you receive the order?

A I was in the office in Berlin, in Voss Strasse.

Q But you don't remember from whom you received it?

A No, I really cannot remember.

Q Now, as to these questionnaires that were signed by the doctors concerning these insane patients; when the questionnaire was fully completed by the medical men, where did that questionnaire go?

A This questionnaire was sent to Tiergarten Strasse 4, but I don't know exactly whether it came directly from the institution or whether it went through the Ministry of the Interior or whether it went partly through the Ministry of the Interior and partly directly.

Q But it finally came to rest at Tiergarten Strasse 4?

A Yes.

Q Who was the head of Tiergarten Strasse 4?

A The head of Tiergarten Strasse 4 was first Bohne and later Allers.

Q Who signed the final order directing that euthanasia be administered to these insane persons?

A There was no final order signed.

Q Do you mean to say that these institutions would send people to the gas chamber without any order to do so?

A No.

Q Well, who signed the order directing them to administer euthanasia to these people?

A Bouhler authorized the individual euthanasia doctors under the prescribed safe guards and gave them the authority to administer euthanasia, that meant that they could administer euthanasia if the prescribed procedure of judgment and observation had been carried out.

Q Was there any order to that effect signed by Bouhler?

A There was the obligation enjoined on these doctors by Bouhler.

Q Do you mean to say that these people were gassed in these chambers without the authority of any written order?

A No, I don't mean to say that.

Q Well, who signed that written order?

A Hitler had signed it.

Q Well, Hitler established the process of euthanasia, but he never signed an order that Johann Schmidt would be administered euthanasia. Who signed an order that these individuals in these institutions should be sent to the gas chamber?

A There was not a single order in that form. It was the result of examinations by various systems, and the sum of these examinations and checks was what Hitler had wanted with his order.

Q Well, these questionnaires that were signed by the doctors must have gone some where for final action, did they not?

A Yes.

Q Where did they go?

A When the experts and the chief experts had finished with the questionnaires, and the patients had undergone their period of observation, then the questionnaires came, with the transfer list of the Ministry of Interior, to the euthanasia institutions.

Q That is Tiergarten Strasse 4?

A No.

Q Where?

A One of these six institutions I named. The questionnaires were sent there. I said yesterday that the last doctor, the one who actually administered euthanasia had to compare the questionnaire with the case history and personal data of the patient, which came with the patient.

Q Well, was there no central office in Berlin to which these questionnaires were sent by the doctors who had worked over them? I thought you said they went to T-4?

A They were sent there from the institutions where they were filled out in the beginning, but then came the whole procedure of judging each individual patient, and only when this process was finished.

Q But, where was that process accomplished; where were they judged?

A By the individual experts. Photostat copies were made of the questionnaires at Tiergarten Strasse 4, and then one photostat -- you said Johann Schmidt, I shall use that name for an example -- the questionnaire about Johann Schmidt was sent in three copies to three different experts. Bouhler had ordered that these three experts could

not include any doctors who were treating this patient.

Q I know, but when these three experts had accomplished the questionnaire and recommended that the subject be administered euthanasia, where did they go -- the questionnaires?

A They sent the questionnaires back to Tiergartenstrasse 4; from there the entries from the three questionnaires were transferred to a fourth copy -- the opinions of the three doctors. This fourth questionnaire of Johann Schmidt also contained the opinion of the three different experts, and this was sent to the chief expert. The chief expert then decided whether this Johann Schmidt was to be transferred to an observation institution or not. If he decided that Johann Schmidt was to be transferred to an observation institution, he informed the Reich Ministry of the Interior. The Reich Ministry of the Interior then ordered the transfer of Johann Schmidt from institution A to an observation institution. In this observation institution there was a doctor, not necessarily the head of the institution, who was authorized to observe these patients who had been transferred there. If his observations agreed with the opinion of the experts, then he drew up a list which he sent to Tiergartenstrasse 4, or the chief experts discussed that personally with him when they visited his institution and examined the patients. Who drew up the list of what patients were to be transferred from the observation institution to a euthanasia institution, I frankly do not know. Then, the Ministry of the Interior sent a list to the observation institution of the patients who were now to be transferred to a euthanasia institution; and then Tiergartenstrasse 4 sent the euthanasia institution the photostat on which the chief expert had entered the observation notations, so that the euthanasia doctor would have all the records on the patient, because he alone had to make the final decision.

Q You said, "he alone had to make the final decision". Who is "he"?

A The doctor in the euthanasia institution had to decide

alone, whether, on the basis of the record and opinions which he had, he wanted to administer euthanasia to the patient or not.

Q Who was that doctor?

A There were several of them.

Q Who were they?

A I have given their names. As far as I can remember them: Dr. Baumhart, Dr. Hennecke, Dr. Schmalenbach, Dr. Eberle, Dr. Schumann, and from the documents I have got the name Dr. Boerneck, but I had forgotten that name. I had remembered his name as Berner or Berneck, something like that, but I think the name in the document is right, Boerneck. Also, there were a few others, but I do not remember their names.

Q Those were the men who gave the final order for the administration of euthanasia to Johann Schmidt or the other insane persons?

A No, they did not give any order, but they actually carried out euthanasia.

Q Well, pursuant to whose direction, did they carry out euthanasia, the Ministry of the Interior?

A No, on nobody's order, but on the basis of the authority given them by the Fuehrer order.

Q They simply acted upon the questionnaire and carried the results into effect from their judgment on the questionnaires?

A They acted medically on the basis of the questionnaires, and the examination and the case history. Legally they could act only on the basis of the authorization of the Fuehrer, the Fuehrer decree.

Q I understand that.

THE PRESIDENT: I have no further questions.

The Tribunal will now be in recess.

(Thereupon a recess was taken).

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THE MARSHAL: Persons in the courtroom will please find their seats.

The Tribunal is again in session.

THE PRESIDENT: Any questions to be propounded to this witness by defense counsel?

BY DR. SERVATIUS(Defense Counsel for Defendant Karl Brandt):

Q. Witness, when did you first hear of the defendant Karl Brandt's connection with euthanasia?

A. The first time, after the order was issued by Hitler to Brandt and Bouhler.

Q. That is, after the decree of September 1939?

A. I don't know the date. I only know that it was after the order was issued. Before that I had heard nothing about Karl Brandt's being connected with euthanasia.

Q. You spoke about Bohne and Allers previously. To whom were they subordinated?

A. They were subordinated to Bouhler, as can be seen from the chart which I drew.

Q. What was Professor Nietzsche's and Professor Heyde's position in connection with Karl Brandt? Were they subordinated to him? Were they his deputies, or what was the relationship?

A. There was no relationship whatsoever. Professor Heyde and Professor Nietzsche, and also, later, Professor Schneider, were the top experts working for Bouhler. I know of no relationship at all.

Q. Was Karl Brandt your superior?

A. No, Bouhler was my superior.

Q. Could Karl Brandt issue orders to you?

A. No, certainly not.

Q. Do you know of an administrative and medical department of Karl Brandt which dealt with euthanasia?

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A. I know of no such department, but the interrogation officials, when interrogating me, convinced me that the administrative as well as the medical leadership at T-4 would have to be considered such departments run by Karl Brandt. However, that does not correspond with the actual situation as it prevailed at that time.

Q. Witness, was Karl Brandt to speak on the subject of euthanasia at the meeting in Munich, where the Gau offices for public health were? And did you merely represent him?

A. I don't know anything about Karl Brandt's having been intended for that purpose. I only know from Bouhler that he had been asked by Conti to speak at this meeting about Hitler's decree. I know that I then received the order from Bouhler to represent him. I had forgotten this entire affair and was reminded of it only by my interrogations.

Q. Was Karl Brandt active in drawing up the draft of the law for euthanasia, on which you worked?

A. No, Brandt didn't participate in that at all. The lawyers, physicians, and members of the Chancellery of the Fuehrer worked on it.

Q. I have no further questions to the witness.

BY DR. HOFFMANN (Defense Counsel for defendant Pokorny):

Q. Witness, you said that Himmler, in January, 1941, asked you whether there weren't physicians in Bouhler's environment who would assist him in the search for sterilization methods? Is that correct?

A. Yes.

Q. Do you know, witness, to what extent Himmler told these plans to his close entourage? For instance, Heydrich?

A. From the documents which are available here, I have now learned that a copy of my letter of March 1941 was sent to Heydrich in his capacity as Chief of the Security Police

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and SD, and I believe also to Dr. Grawitz.

Q Witness, do you still remember that the Prosecution has submitted a document here, this is document No. 39, where the Deputy Gauleiter of Niederdonau also approached Himmler with a sterilization proposal?

A At the moment I do not recall that document.

Q In that case let me hand it to you. That is NO 39.

THE PRESIDENT: What is the number of the English Document Book?

DR. HOFFMANN: Your Honor, I don't know that. I only know the German.

MR. HOCHMILLER: It's on page 16 of Document Book No. 6, Your Honor.

BY DR. HOFFMANN:

Q Witness, this letter was sent by the Deputy Gauleiter of Niederdonau; his name was Gerland. Have you any idea as to how Gerland got to know of Himmler's plans?

A I have no idea about that at all. I remember now that I read that letter when studying the documents, but I really don't know how Gerland came to make such a suggestion.

Q Weren't you in contact with Party agencies?

A Yes/

Q Is it possible therefore that this suggestion was passed on by you?

A No, certainly not.

Q Witness, was the extermination of the Jews a crime in your opinion, too?

A Yes.

Q Witness, you said that you tried to prevent the extermination by X-ray sterilization, of which Himmler told you? Is that true?

A Yes, that is true.

Q Witness, you furthermore said that according to the expert opinion of the physicians regarding x-ray steriliza-

tion, you got knowledge that one could actually sterilize human beings by using x-rays?

A No, I didn't say that. What I said was that the method was somewhat uncertain and that I do not remember the details of this expert opinion. I do remember that it was changed.

Q At any rate, you were not quite certain, witness, that one could not sterilize human beings by using x-rays?

A I personally held the opinion that x-rays could not bring about permanent damage.

Q Witness, but don't you believe that one could only have been allowed to offer Himmler some means by which no sterilization could have been effected, in order to justify one's interference?

A Would you please repeat the question?

Q I asked you, do you not believe that one was only justified in offering Himmler a method which under no circumstances could sterilize human beings, if one wanted to prevent sterilization?

A Yes. That was my opinion. I was of the opinion that one would have to offer him such a method, and that is why I made that proposal.

DR. HOFFMANN: I have no further questions.

DR. FORESCHMANN: Mr. President, would you please tell me whether I can already examine the witness in connection with the questions which have been put to him by the Judges and by some of the other defense counsel, or will I have that right only after the cross-examination by the Prosecution?

THE PRESIDENT: Well, the plan which has been followed is that counsel for defendant may re-examine the witness after all the Prosecution has been conducted. You will have the right to re-examine the witness after the Prosecution has cross-examined the witness. I would suggest, however,

Counsel: the Tribunal now has your Supplement No. 3, - Document Book 3, your supplement; and I think it would make for orderly procedure if counsel would introduce the documents in evidence now.

DR. FROESCHLANN: Yes, Your Honor. Mr. President, in the supplementation of my submission of evidence I now submit the following documents contained in my Supplement No. 3: Document 48, to be found on page 15. This is an affidavit by Dr. med. Walter Schultze. It bears the date of April 28, 1947, and it was signed by him and certified by me. I offer this document as Brack Exhibit 39. I dispense with reading this document, and I should like to ask the Tribunal to take notice of its contents. The document contains a factual description of the knowledge which Schultze has gained on the basis of his personal acquaintance with the defendant, and speaks about Brack's personality. I should not like now to read anything about the defendant's personality. I should further like to offer Document 49 on page 19. This is a certified copy from the book of Dr. Kogon, who has been heard here as a witness. The book is entitled "The SS State." I have included here only a sentence taken from page 229 of that book. I offer this document as Exhibit 40. I have the book available here. I was not in a position to get the necessary photostat copies since yesterday afternoon. I shall submit these photostat copies soon, and in the meantime I have handed a certified photostat copy of that book to the General Secretary. I offer that document as Exhibit 40. It confirms the fact of which the defendant Brack has already spoken, that on the occasion of Adolf Hitler's 50th birthday in the year 1939 about 2300 prisoners were released from Buchenwald alone. This is one of the so-called amnesties of which the defendant Brack was speaking.

Furthermore, I offer Document 50 which is to be found on page 20 of my supplemental volume. Here I should like to ask for some clarification on the part of the Tribunal or the Prosecution. Document 1696-PS, Exhibit 357, which was submitted by the Prosecution as a document but which does not contain that particular page which I am submitting. This page, which is not contained in the Prosecution document, I have on my part submitted to the Tribunal in order to clarify the situation to the Tribunal and support my case. I ask for the decision of the Tribunal whether I should add an exhibit number to that document or whether it is sufficient to read it here.

MR. HOCHMULLER: If Your Honors please, in the photostat copy which is in the hands of the Prosecution, this page is a part of the document. Of course, I can not say whether this page is also in the copy which was handed the Tribunal as an exhibit, but anyhow we agree that this is certainly part of the document, so I do not think it necessary that Defense Counsel give this page a new exhibit number. It is a part of document 1696, which is Prosecution Exhibit 357.

THE PRESIDENT: The document offered by defendant Brack should have an exhibit number, but accompanying the exhibit should be an explanation that I don't find on the document; the explanation should simply show that it is supplementary to a certain exhibit heretofore filed by the Prosecution. If counsel will prepare such an explanation and have it added to the document book it will clarify the situation, but this document will be admitted as Brack Exhibit 41.

DR. FROESCHMANN:

Mr. President, the same applies to the Document No. 51, which I shall submit next. That can be found on page 21 of my supplemental volume. This also is just one page of the Document which was already submitted by the Prosecution as PS 1696. I am submitting that page again, because the Prosecution failed to do so. I offer this Document as Exhibit Brack 42.

THE PRESIDENT: The Document will be admitted with the same explanation made in regard to Brack Exhibit 41.

DR. FROESCHMANN: I should furthermore like to offer Document No. 52, to be found on page 23 of the document book. This is a certified copy of the Ministerial Gazette of the Reich and Prussian Ministry of the Interior, 1940, Page 1437, and refers to ministerial decree on the treatment of deformed new-born children. This book has been made available to the defense from the collection of documents. I have made a certified excerpt and I shall now submit it to the General Secretary. It will receive the Exhibit No. 43. I shall at a later date also submit a photostat copy of that page, with the necessary explanation.

JUDGE SEBRING: Dr. Froeschmann...

DR. FROESCHMANN: Yes, Mr. President.

JUDGE SEBRING: In this Document No. 52 from the Ministerial Gazette of the Reich and Prussian Ministry of the Interior, Circular Decree 1 July 1940, at the very end, in the last paragraph, appears this statement:

C "To the Reich Governors, all regional governments other than Prussian, the Reich Commissioner for the Saar Palatinate, the County Presidents, the Police President, Berlin, the public health offices."

Do you understand that that paragraph contains the officials who are to be governed by the decree?

DR. FROESCHMANN: Your Honor, as far as I am informed, there were decrees which were published only in the Ministerial Gazette; on

the other hand, there were also decrees which were published only by circularizing the decree to the individual agencies. This particular decree, an excerpt of which I am submitting to the Tribunal here, was obviously one which was published in the Ministerial Gazette, but which refers to a preceding decree dated 18 August 1939, which was not published in the Ministerial Gazette, but which was only circulated to the individual agencies as a circular decree. For that reason this decree was in addition circulated to those agencies which had the preceding decree of 18 August 1939 in their possession. The authorities mentioned, the Reich Governors, all regional governments other than Prussians, the Reich Commissioner for the Saar Palatinate, the County Presidents, the Police President in Berlin, as well as the health offices -- and the latter were the most important -- were informed that in accordance with the Ministerial Decree, the public health officers were to be approached in the future by the Reich Committee and were to be informed of the institute to which the particular child was to be sent. To come back to the judge's question, the official who received the authorization to send the child away was included in this decree.

JUDGE SEBRING: At that time, 1940, what regional governments other than the Prussian government existed, according to your knowledge?

DR. FROESCHMANN: There was the Bavarian Regional Government, as far as I know, and there was the Hessian Regional Government, there were the free cities of Hamburg, Bremen, and Luebeck, I believe, but I must say, I am not informed about that very well, because I did not concern myself with these questions during the war, since I was serving with the Wehrmacht.

JUDGE SEBRING: Would this include regional governments which may have been set up in the Sudeten land or in the partitioned portion of Poland or in the Protectorate of Bohemia and Moravia, or in Austria, or in any of the other occupied countries?

DR. FROESCHMANN: Your Honor, I really cannot make any judgment about that, but I do know that the only countries in question be-

sides Germany proper where a regional government was set up, is Austria; however, there was no regional government in Poland or Alsace-Lorraine or anything like that.

The last document which I shall offer is document No. 46, the affidavit of Wolfgang Liebensiner, as Exhibit No. 44. It is dated 28 April 1940, signed by him, and certified by a Notary. I shall only refer to a very few sentences from this affidavit -- it would be too long otherwise -- and I shall only emphasize the parts relevant to the case so far. I shall read the first sentence the second paragraph on page two of this affidavit. Liebensiner was the director with whom the Defendant Brack negotiated about this film which has been mentioned. The director of the film at first agreed when Brack had not appeared yet. Then he heard that the Chancellery of the Fuehrer was involved, and had misgivings because he believed that this was a political matter, which he did not want to express in a film. He therefore says:

"In my spontaneous assent, I became dubious again when Mr. von Demandowsky -- that was the man in charge of the whole thing -- told me that the Chancellery of the Fuehrer was interested in the production of this film, as the interference of a not only non-artistic but even political group in our work had already on several occasions caused me trouble in my profession."

Then he meets Brack and says the following, at the bottom of page 2.

"Much of my surprise, I found in Mr. Brack an entirely different man than I had feared. He was immediately prepared to discuss the scenario with me." I shall leave a bit out.

"He then enlisted the aid of medical experts, Dr. Hefelmann and Professor Nietsche." Hefelmann was not a physician but a lawyer. "A series of long discussions followed, during which the entire question was discussed." Again I omit the next few lines. I continue with the third paragraph on page 3:

"Mr. Brack was of the opinion that a law should be issued, the

draft of which he showed me, which would empower a Tribunal composed of doctors and jurists and under public control to make decisions on the requests of patients." And I read the last sentence of this paragraph: "Brack wanted those against the killings to be given the opportunity, upon request, of putting forward their arguments." And now the witness continues:

"In this connection, we also discussed the position of the Church, whose interpretation of God's will has varied throughout the centuries, and in particular, the problem of when God made known his will of letting a human being die, when the artificial prolongation of such a life represents interference with the intentions of the Almighty, and when the interference of the doctor to prolong or shorten suffering can be recognized by the Church and when not, is a frequent subject of conversation.

"Mr. Brack thought a great deal about all of these questions", etc., "and I would like to point out expressly that it was not about the supposed effect of the new law upon the Church, but rather the problem itself, which he made his own."

I shall skip the next paragraph and I continue:

"A border sphere, the inclusion in the film of which was discussed several times, naturally was the case in which an incurable patient is not in a position to request deliverance, because he is prevented from doing so by his condition, or when he makes such a request without being fully responsible, that is in the case of the insane."

I shall skip the next sentence:

"Brack was for the killing for the same reasons as in the case where death was requested, that is, out of deep pity for suffering creatures, and because of the conviction that not only the distortion of the human image in some mentally ill and some physically deformed is an unbearable torture for these persons themselves, but actually represents a destruction of the body, soul and spiritual make-up of the human being. If one of these links were missing, so he argued, God's

image would be destroyed and the human, no longer a human, would therefore, no longer fall within the Human Right, but would place on the actual human the duty to deal mercifully with the suffering creature."

I skip the next paragraph again, and I quote paragraph 3 on page 5: (he is now speaking of the production of the film).

"Another scene, however, which Mr. Brack suggested was carried out by us, that is the killing of a sick experimental animal through the application of ether by a sympathetic doctor (female).

Mr. Brack was present several times when work was going on in the studio; on one of these visits he brought Reichsleiter Bouhler along.

"In summarizing," the witness says, "I would like to point out the following: The mental attitude of the persons in the film 'I accuse' while not agreeing to euthanasia, is built up on the conversations and explanations which Mr. Brack had with me, and which he gave me, and was strongly influenced by him. The ethics of the film personalities, also of Dr. Lang, are evidence for the opinion of Mr. Brack in the years 1940 and 1941. The opinions of the opponents of euthanasia, which are brought up in the film, are typical of the determinations of Mr. Brack in which he tried to clarify himself as to whether his dealings were right.

"Beyond this, the objective presentation of the 'pros' and 'cons' which Mr. Brack brought into the film, is not only expressive of his character, but is also without parallel in the history of films in the Third Reich.

"The film, 'I Accuse' could never have been created in this form, if it had been produced under the control of the Propaganda Ministry, which permitted only black and white sketches. The cooperation with Mr. Brack gave me new courage at that time to start again in the line of art, which was considered degenerated."

And the last paragraph:

"The film 'I Accuse' was recognized by all sides, even by anti-Fascist artists, and even by the Osservatore Romano, as a work of

art, and general surprise was evoked that this should suddenly be possible. This can be credited to Mr. Brack and his refined, not-vain, and impartial attitude, which was at all times human.

"I got to know Mr. Brack, during the months of my contact with him, as a sincere, intelligent, and above all, completely unselfish man, who, aside from this, was entirely polite during the discussions and conferences, and was always perfectly willing to listen to his partner, to reflect on his arguments, and to be convinced thereof.

"Even though he was, by conviction, a National Socialist, he was far removed in character and in his behavior from that which is today called Nazism and militarism, above all, from impatience, self-justification, lies, and brutality.

"I myself was never a member of the NSDAP or any of its organizations."

Your Honors, I only have to add one thing to this document. I want to emphasize that not one word of this affidavit was put into the mouth of the witness or was suggested by me. He sent it to me from Hamburg in the very form in which it is now. This concludes my submission of document, Mr. President.

THE PRESIDENT: Then, I understand, Counsel, you are not offering Brack Document No. 47?

DR. FROESCHMANN: Mr. President, I just overlooked that. The decision regarding the submission of documents, Brack No. 47, and document No. 3, in document book No. 1, I should like to reserve in case the cross-examination by the Prosecution give me an occasion to offer these documents. I shall probably not come back to them.

THE PRESIDENT: Very well, Counsel, I just wanted to be sure that you had not inadvertently overlooked it.

DR. FROESCHMANN: I dispense with the submission of document No. 33 in document book No. 2, page 21.

THE PRESIDENT: The Prosecution may cross-examine the witness.

CROSS-EXAMINATION

BY DR. ROCHWALD:

Q. May it please the Tribunal, Herr Brack, you are not a doctor, are you?

A. No, I am not a physician.

Q. And Buhler wasn't a doctor either?

A. No Buhler was not a physician, either.

Q. Did you receive psychiatric training?

A. No, never.

Q. You were, however, very much interested in the question of euthanasia from the theoretical point of view; were you not?

A. No, I never was interested in the question of euthanasia.

Q. But after 39, when you got the information from Buehler that you were going to work with him in this program, you started to be interested in this question, and you read some books didn't you?

A. Yes, at that time I started to get interested in that question. I considered it my duty to inform myself about this as much as possible.

Q. Did I understand you correctly in saying the work of Binding and Hoche was the standard work on euthanasia?

A. I was told the work of Binding and Hoche was the standard work about euthanasia; in addition, however, I read some other books.

Q. Do you know this work of Binding and Hoche very well?

A. No.

Q. Do you remember whether it is a thick volume, or a small book, or what form it has, and what is in there?

A. Yes, I do remember that. It was a relatively small volume. It consisted of two parts; one part contains the chapters of interest to lawyers, Binding, and the other constituted the chapters for the psychiatrist, Hoche.

Q. You just said there was a part made up of legal matters, in German, by Professor Binding is the legal man, isn't he? So, I take it many legal questions came up in the euthanasia program; for example, whether certain persons should be informed about the true cause of death of the victims, further, attitude of the different judicial authorities, and so on. Who handled these questions in the office of Buehler, if they were handled in the office of Buehler at all?

A. I beg your pardon, do you mean the decisions which

Bouhler made with regard to the notification of relatives?

Q. There were some people, a certain circle of people who were, in spite of the secrecy, so I understand from your testimony, who were, in spite of the secrecy of the Euthanasia program, informed about the program itself -- certain doctors and possibly also certain legal people; the Ministry of Justice, and so on; who handled these questions and the correspondence which resulted from these questions?

A. These questions of a legal nature were generally dealt with by Dr. Bohne. He was assisted, as far as I know, by a certain Regierungsrat Zervatsky or some such person.

Q. Not by you or by one of your collaborators in the Chancellery of the Fuehrer?

A. No, not by me.

Q. But, I have seen from the evidence here that you were the person who was approached in questions of an administrative nature, whether the questions came up from the legal authorities or from the SS. Do you remember they introduced some evidence, correspondence with Freissler? And you yourself, mentioned yesterday quite extensively the correspondence with Himmler and that you were twice for a conference with Himmler, and there you spoke to him about euthanasia and he spoke to you about it; is that correct?

A. No, I went to Himmler once with a question regarding euthanasia.

Q. But, he wrote to you when he got these complaints from Buch about euthanasia; he wrote you a letter, didn't he?

A. Yes.

Q. So, you were the person who was approached in such questions, were you not?

A. No, I was the person to whom Himmler turned in cases like that.

Q. And what about Freissler? Freissler also turned to you, didn't he?

A. No; as it can be seen from the documents, I gave certain instructions to Freissler by order of Bounler, but Freissler did not turn to me.

Q. You contacted him by order of Bounler; was that regularly that you handled these things for Bounler?

A. That differed. A number of matters were dealt with by the Reichsleiter directly, and sometimes he told me: You deal with this in this or that form -- and that is what I did.

Q. Was it often that he gave you such tasks to perform?

A. That varied.

Q. Was it once a week or once a month?

A. Almost daily I had to report to Bounler; or I was called into his office to receive instructions, because I had to report to him about my entire work.

Q. You reported daily to him in connection with the question of euthanasia?

A. No, about the work of my office.

Q. I am coming back to the question which I asked you just now. Was it often that you got tasks of this kind? Tasks dealing in the euthanasia question, of a legal or administrative nature, from Bounler?

A. Yes, I certainly did receive such assignments from Bounler, but I cannot tell you how often.

Q. All right, I want to ask you now -- I have before me document 630 Ps, Prosecution's exhibit 330, document Book 1a, part I, page 3, your Honor. This is the letter from Hitler to Brandt and Bounler. You have been speaking

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quite a while about this document, and I only want to ask
you -- on the bottom here -- do you have the document
before you?

A. No, I have not.

Q. On the bottom there is a hand written note "Given to me by Bouhler on 27 August 1940, signed Guertner". Dr. Guertner was the Minister of Justice, was he not?

A. Yes.

Q. Guertner, according to this note, received the document nearly a year after its issuance. Why was he not informed earlier? He was the highest legal authority. This was a very important matter. It was the legal basis to the whole euthanasia program. How was it possible that such a far-reaching and important authorization over the life and death of 550 to 600 thousand people was not handed to Guertner earlier than that?

A. Because of secrecy Bouhler didn't want to send this letter or decree to any other agencies. Guertner, of course, was informed much earlier, but at this period of time Bouhler upon his request sent him a photostatic copy of that decree in order to keep it in his own files.

Q. I am at a loss to understand that. You tell me that Bouhler certainly informed Guertner long before that time, so the authorization was not secret any more to Guertner. Why didn't he give him the document, such an important document?

A. I didn't get your question.

Q. You told me that Bouhler did not want to hand the document to Guertner because the document was top secret, did you not? By this same reply you told me that he certainly informed Guertner much earlier than 27 August 1940 about the contents of the document. I would like to know why then, after the information Guertner got from Bouhler, the thing was not secret for him any more, why he did not get the document right away from Bouhler. Can you explain that?

A. Well, perhaps I didn't express myself properly before. Bouhler didn't want to give the original or a copy out of his hand. As far as I know he informed Guertner orally much earlier in the same way as he

also informed others. In this connection I remind you of the affidavit of Schultze, who confirms how Bouhler informed the Minister of the Interior of Bavaria, Wagner, to whom he only showed the document. He didn't give it to him. I know this characteristic of Bouhler's.

Q. Isn't it a fact that Bouhler informed Guertner only after too many complaints were made to the public prosecutors all over Germany and these complaints came to Guertner, their chief, isn't that a fact?

A. I really don't know when Bouhler informed Guertner.

Q. Did you ever, or your office, receive these complaints of the public prosecutors?

A. No. We never received any complaints from the public prosecutors. We had some from the Ministry of Justice.

Q. Who handled these affairs in your office?

A. Bouhler at first dealt with these questions, and I then received orders from him to investigate the complaints that seemed to be justified. I made excerpts from these complaints or perhaps sent the original to T-4 in order to investigate whether any mistakes had been made, and I wanted to see that all mistakes which were caused by the secrecy -- be avoided in the future.

Q. Did you also investigate the so-called unjustified complaints?

A. Actually every complaint was investigated which created the impression that a mistake had been made. If, however, a complaint read as follows: "I state that within the area X ten or fifteen people had died at one institution within three months," I certainly couldn't investigate any such complaint, because it merely stated facts.

Q. I want to hand you now Document NO-1326 which will be Prosecution Exhibit 495 for identification. This is a letter from you to Schlegelberger -- who was the acting Minister of Justice, was he not? -- of 22 April 1941; there you have some of these complaints. Do you remember this letter, Herr Brack?

A. I don't remember this letter. I would have to read it first.

Q. Is that your signature?

A. Yes, that is my signature.

Q. You write here: "Very honored Party Member Dr. Schlegelberger, Corresponding to our agreement, I beg to refer to some details of the proofs, which were put at my disposal. I would appreciate their clarification and /or regulation.

Part I of the enclosure contains a report by the president of the regional court at Klagenfurt, dated 7 November 1940, on the interrogation of a counsellor at the lower court, Dr. Spusta, who made almost monstrous utterances regarding the 'Aktion' in a civil verdict. Dr. Spusta's attempts to justify himself in this interrogation protocol appear completely insufficient."

Does that refer to the euthanasia program, the word "Aktion" here?

A. Yes.

Q. I go on: "In Part II of the enclosure, the prosecutor general at Linz reports to the Reich Minister of Justice on 28 November 1940 on an investigation procedure against assistant physician of our Hartheim institution in connection with the case Guenther Rottmann. The Prosecutor General prevented the quashing of this proceeding. Since it can be assumed that the Prosecutor General at Linz belongs to the persons who were informed by Secretary of State Freisler about the "Aktion" in August 1940, his behavior is inconceivable in every respect.

" In Part IV of the proofs at my disposal, the president of the higher court at Bamberg reports on 14 January 1941 about a petition of the judge at the court at Kitzingen concerning its law officer Ramling. When his mother-in-law brought her daughter, Frau Ramling, into a mental institution because of mental sickness, she had to sign a document stating her consent to the imminent death of her daughter. I would appreciate it very much if the law officer Ramling would be

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officially requested to indicate the institution as well as the name of the director of the institution and/or the name of the admitting physician concerned, so that the matter can be investigated. It stands to reason that within the frame of our 'aktion' relatives were never requested anything corresponding to Ranling's statement.

"I request also to ask the judge at the court at Kitzingen as to give the name of the professor in a large town who is in charge of a hospital there, so that this fact can also be clarified. Many thanks in advance for the trouble you are taking.

Heil Hitler,

Your very devoted

Brack "

So you handled this matter in the office of Bouhler, didn't you?

A. I can remember this connection rather well because Bouhler had already told me that the Ministry of Justice was compiling such complaints made by the Public Prosecutors. I received these complaints, as they are mentioned here, in about three or four books. I worked through these complaints in detail and took the necessary steps as far as any mistakes could be ascertained which were made at T-4. I transferred these complaints to that agency in order to prevent such mistakes in the future. As can be seen from this letter, I sent reports to the Ministry of Justice in three or four cases where mistakes had apparently been on their part, so that they could investigate these mistakes.

Q. It is a matter of fact, then, that these legal questions, so far as they came up in Bouhler's office, were handled by you, is that correct?

A. No, that is not correct. That does not constitute any dealing with legal questions.

Q. Did you concern yourself once, during the years you worked with Bouhler on this problem, as to what the opinion of the official legal authorities was as to the question of euthanasia?

A. I informed myself about the opinion of the jurists, not the opinion of the legal authorities, and I found out that opinions differed. Some were for it and others were against it. I never heard personally of any objection raised in the Ministry of Justice. I heard, however, that some lawyers were against euthanasia - not all of them were for it.

Q. You lectured in the Ministry of Justice about euthanasia, did you not?

A. Yes.

Q. What did you tell these gentlemen as to how many people approximately in Germany would be administered a mercy death? How many persons?

A. I don't believe that I mentioned any number there.

Q. What impression could these gentlemen have about the number of people who should get the privilege of mercy death by this action?

A. As far as I remember, these matters weren't discussed at all. I first showed them Hitler's decree; secondly, I presented to them the draft of the law which had been worked upon. On the other hand, Heyde spoke about the medical execution.

Q. What was the impression Heyde gave to these people? How many persons possibly would be privileged to get a mercy death in connection with this action?

A. I don't know whether Heyde mentioned any numbers, either. I only know that no objection was raised during that meeting against the problem of euthanasia.

Q. Did you tell in this lecture who would be exempted from the privilege?

A. I don't believe that I said that. I think that that was mentioned by Heyde.

Q. Are you sure about that?

A. I said "I believe". I really don't know any more.

Q. It was mentioned, wasn't it? These classes of people who were exempted were mentioned?

A. I really can no longer say today.

Q. Can you tell me about this work of Binding and Hoche? You are very familiar with this work, aren't you?

A. No, I am not. I said that I studied this work, and I already stated yesterday that I didn't particularly like it. I said that I was more favorably disposed toward another book, the one by Helzer. I didn't particularly understand the legal statements made by Binding.

Q. That was the only reason why you did not like this book by Binding and Hoche, or had you other reasons too to dislike it?

A. I really can't tell you that at the moment. I only know that it didn't seem as clear to me as other books.

Q. But you are familiar with the principles stated there, aren't you?

A. Partly perhaps.

Q. I have the impression from this book that these authors by no means ask for the right to kill incurable mental patients no longer capable of work or eventually even incurable, but only suggested killing of incurable imbeciles - and, so far as I know, there is a difference between an insane person and an imbecile - in accordance with some former legal procedure, a very complicated legal procedure, implemented with every possible decree. Is that correct? Am I correct in assuming that that is the principle on which the book of Binding and Roche is based?

A. Well, I must tell you quite frankly that I really cannot confirm whether you are right or not. I didn't quite agree with what Binding says about denying the right of life to the patient. That is how I conceived his opinion. On the other hand, I always thought that it was a duty to aid the patient by granting him mercy death. I think that I was on a different level, although I arrived at the same aim.

Q. So, in other words, your opinion then about the mercy death or about the privilege of mercy death went much farther than the opinion of Binding and Roche? Isn't that correct?

A. No, not farther but different.

Q. And where is the difference?

A. Binding has said that the incurably insane person no longer has a life which is legal property. This is a purely legal concept under which I couldn't imagine anything. Whether the life of an incurable patient constitutes a legal property or not I cannot judge. I really cannot judge whether mercy death could be granted to such a person. What was important to me was the question of whether he is suffering to such an extent that one is justified in relieving him of that suffering. This is an argument that I understood.

Q. But there are very many insane who are not suffering at all, aren't there? Who have no pains? Who are, many times, feeling subjectively quite well? Who do not want to die? Is it possible to administer to such people the mercy death, according to your opinion, or according to the opinion of Binding?

A. Well, I really cannot judge that. Please ask a physician.

DR. FROLSCHMANN: Mr. President, I object to this type of questioning. Mr. President, you will remember that the Tribunal yesterday afternoon forbade me to deal with the problem of euthanasia as regards the legal and medical point of view. I think that this ruling should also be applied to the prosecution.

DR. HOFWALD: If Your Honors please, the witness stated at great length yesterday his personal position to the problem.

THE PRESIDENT: The cross-examination is proper. The objection is overruled. If, on cross-examination, the prosecution opens up avenues which were not proper upon direct examination, upon re-direct examination counsel for the defendant might be permitted to ask certain questions. But the difference between direct examination and cross-examination is pronounced. The objection will be overruled.

At this time the Tribunal will be in recess, and today it will be in recess until 2:00 o'clock.

(A recess was taken until 1400 hours, 16 May 1947.)

AFTERNOON SESSION

(The hearing convened at 1415 hours.)

THE MARSHAL: The Tribunal is again in session.

Mr. HARDY: May it please the Tribunal, before the continuation of the cross examination of the Defendant Brack by Mr. Hochwald, I have two questions to take up with the Tribunal.

The defense counsel has requested that the case of the defendant Beiglboeck come before the case of the Defendant Hoven, so that the cases of Becker-Freysong, Schaefer and Beiglboeck will be continuous; inasmuch as the three cases delve into the sea-water experiments and it won't break up the continuity of the presentation of the evidence. The prosecution has agreed with the defense counsel if it is agreeable to the Tribunal and we would like to hear the case of the defendant Beiglboeck before the case of the defendant Hoven.

THE PRESIDENT: The suggestion made by counsel for the prosecution and for the defense will be approved and adopted by the Tribunal.

Mr. HARDY: In addition to that, defense counsel for the defendant Mrugowsky, Dr. Flemin, has notified me this morning that he intends to call another witness on behalf of the defendant Mrugowsky. He wishes to call that witness after the testimony of the defendant Brack has been completed. I have no knowledge as to what that witness will testify and have not been able to formally object or acquiesce and I should like to hear from the defense counsel for the defendant Mrugowsky as to the name of the witness and what the witness will testify to.

THE PRESIDENT: The defense counsel for the defendant Mrugowsky will advise the prosecution and the Tribunal.

Dr. FLEMING: Mr. President, we are here concerned with

the witness Scharlau. The witness Scharlau has been approved to be heard here on behalf of the defendant Mrugowsky. He will first of all testify as to the time during which the meeting took place in the Ministry of the Interior on 29 December 1941. In addition, he will testify concerning a number of questions in connection with the Hygiene Institute. He will speak about the discussion to which the hand-note of the defendant Sievers refers. It says there that the field of work of Mascher was discussed with Mrugowsky. Scharlau had been present during that conference and his presence is mentioned by Sievers in that file note.

MR. HARDY: Your Honor, due to the fact that this application has been approved by the Tribunal, I have no objection to the calling of the witness, however, I might ask the defense counsel if it would be possible to secure an affidavit from the witness, then perhaps the prosecution could stipulate with the defense counsel and then perhaps avoid calling him before the Tribunal.

THE PRESIDENT: How long do you estimate, counsel, that the testimony of this witness will require?

DR. FLEMING: Perhaps one hour, Mr. President; and I am now speaking of the direct examination which I think will last at most for one hour.

THE PRESIDENT: Does the Counsel for the defendant think it possible to have the witness prepare an affidavit and use that in place of calling the witness in open court?

DR. FLEMING: I shall investigate the question once more and then come to some agreement with the Prosecution.

MR. HARDY: It is apparent, Your Honor, that the case of the defendant Brack may well be completed early Monday morning. In that event it will be necessary to call this witness on Monday, and I assume that Dr. Fleming can ascertain whether or not an affidavit will meet his needs this afternoon, and we can agree on it the first thing Monday morning, and bring it up before the Tribunal at that time?

THE PRESIDENT: I assume that Counsel for the defendant can make up his mind whether or not an affidavit will be sufficient on behalf of his client before very long. The Tribunal would hear the witness following the case of the defendant Brack, if the Counsel for the Prosecution had no objections to the matter as stated.

MR. HARDY: The Defense Counsel has outlined three points that the defense witness will testify to, and it seems to me those points can well be taken care of in an affidavit as well as taking up the time here before the Tribunal. In that event I would stipulate with the Defense Counsel after he has executed the affidavit. If the prosecution does not desire to cross examine I do not think it is necessary to bring the witness here on direct examination.

THE PRESIDENT: Yes, I understand the position of Counsel. The Counsel will consult and decide at the earliest possible moment as to the course the Defense Counsel desires to follow. The witness can be heard following the case of the Defendant Brack, if it is not deemed by the Defense Counsel that an affidavit is sufficient.

The cross examination may continue.

BY DR. HOCHWALD:

Q. May it please the Tribunal, Herr Brack, before the recess we spoke about the Binding and Hoche book on Euthanasia, did we not?

A. Yes.

Q. I would like to refresh your memory as to the contents of this book. I have here a few short excerpts. This is document No. 2893, which will be Prosecution's exhibit 496 for identification, Your Honor. Do you have the document before you?

A. Yes, I have it before me.

Q. This is the book you were speaking about, were you not?

A. Yes, the title is correct.

Q. So, I quote from page 28:

"But one conclusion results as unconditionally necessary: The full regard of the will of life of all human beings, of the most sick and the most tortured and the most useless ones too."

and, you will find another quotation from page 34:

"As already stated above, any authority of annihilating is to be excluded if connected with breaking the will of life of the individual to be killed or the killed."

Do you agree with this point of view?

A. I have already said this morning these purely legal considerations cannot be commented on by me; I can only say that I was not in a favorable disposition toward these considerations. Maybe I did not understand them, because I am not a lawyer. Maybe it is because these considerations contain aspects to which I could not agree. At any rate, these are considerations which have nothing at all to do with the considerations which prompted me -- which were initiated simply by pity for the human being -- rather than by calculated reasoning.

Q. All right, but, so you are of the opinion that the privilege of mercy death can also be given to people who still have the possibility

to resist and who want to live, is that your opinion?

A. No, no, in no way at all. If somebody has the will to live it would no longer constitute an act of mercy.

Q. But, you do remember the document D906, Prosecution's exhibit 376, that is in document book 14, part 3, page 281, Your Honors. And I want to quote only one sentence. Unfortunately I do not have the German, but it is only one sentence. I want to quote:

"The wildest scenes imaginable are reported to have taken place then, as some of these people did not board the bus voluntarily and were therefore forced to do so by the accompanying personnel."

Do you not think these people had still the possibility and power to resist and they did resist? Didn't they?

A No I do not believe that. There are two possibilities here. Either this is a statement which is based upon a rumor which may have resulted in connection with and because of the secrecy, and an exaggeration of something which really took a different course entirely or in the case as it is represented here we are concerned with patients of the kind I saw on my visits to these institutions who had been locked into the so-called strong houses and who constituted severe danger for entire humanity.

Q If they were behind lock and key the danger for humanity wasn't so big, was it? This is an official report so far as I can see from the document and not information of rumors. Do you know that the ideas of Binding and Hocho were by no means universally approved in Germany and in other places?

A I really can not judge that because as I already said up to the time Bouhler received that order I did not at all concern myself with the problem of euthanasia but during conversations I heard just as many approving as rejecting opinions.

Q All right. The letter of authorization which we have been speaking about, Exhibit 330, to Bouhler and Brandt says that Brandt and Bouhler had the responsibility of enlarging the authority of certain doctors by name. Who did select these doctors?

A Bouhler selected them.

Q Bouhler was not a medical man. Did he know the doctors?

A No, but he had that order by Hitler. Professor Hoffmann or Professor Schneider couldn't select these physicians. It was Bouhler who had received that order to increase their authority.

Q I take it from the document Brandt and Bouhler got this authorization from Hitler, and not Bouhler alone.

A Yes. Brandt, of course, had to give his approval but Bouhler at first made the selection among the physicians which were designated to him by name.

Q And Brandt gave his approval, is that right?

A I don't know. I must assume so. I wasn't always present during conversations between Brandt and Bouhler.

Q Did you ever receive a list of names of doctors who were authorized to administer euthanasia?

A No. I already stated that I don't know whether I did receive such a list. I don't know whether any such list existed. At any rate I didn't receive one. I also said that considering the small number of physicians I hardly think that any such list was compiled.

Q Am I right in assuming that it must have come to your knowledge whether such a list existed or not?

A No.

Q Where could a list have been without that you would have seen it?

A Such a list could have existed in Bouhler's office. It could have been the same in Linden's office.

Q Who selected the doctors in the euthanasia stations about whom you told the Tribunal today that they had the last judgment whether mercy death should be administered or not?

A I can not give you any information about that in detail. I do know, however, that Linden made such proposals to Bouhler and I furthermore know that Bouhler then had these physicians call on him and then talked to them.

Q Bouhler alone, in other words, selected these people on his own responsibility?

A No. I was just saying that Linden made the corresponding presentation to him.

Q You said that Linden made the proposals but that Bouhler

selected them, is that correct?

A. Bouhler decided, yes, which ones were to be actually selected. When and how he discussed that matter with Brandt I really don't know.

Q. You named some of the doctors who were active in euthanasia stations. Do you know who was in charge of the euthanasia station Brandenburg?

A. During my interrogations I already stated that I could no longer say with certainty where or at what stations these physicians were working. I thought at the time to remember and I already stated what I knew at that time. However, I don't know that it is all quite correct.

Q. Is the name Wirth (v-i-r-t-h) familiar to you in this connection?

A. Yes, I know that name.

Q. Will you tell the Tribunal who Wirth was?

A. Wirth was a Captain in the Police who was in charge of the local registry office at Grafeneck.

Q. Is the name Gorgass familiar to you, G-o-r-g-a-s-s?

A. The name Gorgass, yes. I heard the name Gorgass now as the result of reading the newspapers. I, of course, can not remember whether he was active as an expert or in any other function within the euthanasia program.

Q. But you know that he had a function in this program, don't you?

A. Yes, I remember that again.

Q. You named some of the doctors who were active in the euthanasia program. Now, I would like to know whether you can advise us how many experts there were? Experts?

A. I really can not give you the number. I know there was quite a number of them, 10, 15 or 20. I am afraid that I can't give you the exact number.

Q How many top experts were there?

A There were three top experts at any rate, there may have been four.

Q You gave us the names of three. I understand you are right? They were Heyde, Nietsche, Falkelhauser. Is that right?

A No, Schneider.

Q Heyde, Nietsche, and Schneider? Who was the fourth one?

A The fourth may have been Professor Deerinis but I no longer know that with certainty.

Q You were chief of Office II of Bouhler's office, is that correct?

A Yes.

Q Would you say you were something like a deputy to him as far as the euthanasia program was concerned?

A No, certainly not.

Q You were his collaborator, is that correct?

A Yes.

Q What exactly was your activity concerning the euthanasia program?

A My activity varied. At first I had to establish connections with all those agencies who could name physicians. I had to get into contact with the physicians themselves.

Q Which were the agencies which gave you the names of these doctors?

A There was the Ministry of the Interior, that was Dr. Linden, then there was the Reichsarzt-So Dr. Grawitz.

Q Somebody else?

A No, nobody else.

Q What else did you do to get the program in operation?

A I participated in the conferences. I arranged conferences for Bouhler whenever he intended to hold them and ...

many more things like that.

Q You could possibly state this a little bit more in detail, can't you?

A It is rather difficult to state it in greater detail. My duties were of such a varied nature that I could hardly recall the details after 7 or 8 years have lapsed. Nobody could demand that from me.

Q What did you do after the euthanasia program was in progress? Euthanasia stations worked, questionnaires were filled out, the people were administered mercy deaths, what was your activity in the program then?

A. I no longer or hardly any longer concerned myself with that part of Bouhler's assignment because I didn't have to, since it ran by itself, and I again turned to the tasks within my own sphere of work to a full extent.

Q. All right. But, for instance, who supervised the operation of T-4? It was the place where all these questionnaires were kept. It was the heart of the thing, wasn't it?

A. Yes. T-4 had its own chief.

Q. Who was the chief?

A. That was, at first, Bohne, and later Allers.

Q. And what was the position of the top experts in T-4, or in connection with T-4, especially Heyde and Nietsche?

A. That is very difficult to say. One could perhaps say that Bohne, to all intents and purposes, was the Chief of T-4, but really, as far as medical matters were concerned, Heyde made the decisive decisions. Bohne was no physician.

Q. And you made the liaison between Heyde and Bouhler, isn't that correct?

A. Yesterday^I rejected the words "liaison man" which, at one time, I did recognize because, after all, I didn't have my office in T-4 but was located in my office on Vosstrasse. I may have been the mediating man between Bohne and Bouhler. Whenever Bohne or Linden came to Bouhler's office, Bouhler was not always there, was not always in a position to receive them, and often detailed me to listen to them personally and then, in turn, report to him in the course of the general reports that I had to make daily.

Q. Euthanasia, as you said yourself, involves a considerable medical problem, isn't that correct?

A. Yes, certainly.

Q. Who was in charge of this part of the program?

A. All the persons who were designated by Bouhler, as experts and partly as consultants. There were psychiatrists, there were physicians,

there were professors.

Q. So, and the top expert - the first top expert - was Heyde, was he not?

A. Yes, he was one of the top experts.

Q. So, he was directly under Bouhler, was he not, according to what you just said?

A. No, he really had a free hand. Heyde wasn't Bouhler's employee, in the same way as Professor Schneider or Professor Kiener or anybody else weren't Bouhler's employees. These physicians were the representatives of the medical thought which prevailed during the execution of euthanasia.

Q. But Bouhler was in charge of the execution. Bouhler and Brandt were the two people who got the assignment by Hitler, were they not, so it seems to me natural that these people were just in charge of Heyde.

A. Well, in that case it would have had the result in Heyde giving up his position as a lecturer and going over to Bouhler and Brandt as their employee if there was to be a definite relationship of subordination, but that certainly wasn't the case.

Q. Isn't there a possibility that one person has two different tasks?

A. Yes, that is possible, but these are considerations which didn't prevail at that time and I can hardly give you any authentic statement now as to how to distinguish between these relations.

Q. But you know that Heyde was the first top expert? That you know, don't you?

A. Heyde was the first top expert.

Q. You testified here that you are convinced that a man like Heyde never would have lent himself to the carrying out of the euthanasia program in concentration camps, is that correct? In the way it was described by the witness Dennecke?

A. I don't think that Heyde would have placed himself at the disposal of something like that.

Q. You have further testified that he and Nietsche and Falkelhauser were the people who gave you the assurance that the examination which was carried out in concentration camps by order of Himmler, or at the request of Himmler, would be for the benefit of the inmates and that these people never would have taken part in such measures as Action 14-F-13 was. Is that correct?

A. No, what I said was that I did not believe that people like Heyde or Nietsche would have participated in anything like that. I certainly never discussed that with them.

Q. But I understood you testifying that you know that doctors who were connected with the euthanasia program carried out examination in concentration camps. Isn't that correct? On the request of Himmler? Didn't you say that? Examinations?

A. No, I said that I was convinced that such people, if they have performed any such examinations, have performed them in a way which corresponded to their scientific ideas and would have done that correctly.

Q. Did you know that examinations of insane or mentally disturbed people were carried out in concentration camps?

A. No, I didn't know that. I received the order and I passed it on. I don't know, however, whether, how, and by whom this order was executed.

Q. To whom did you transfer this order?

A. I already said that I no longer knew whether I transferred this order to Heyde, Nietsche, or Allers. I assume that it must have been one of these three gentlemen.

Q. And this order was purely for the carrying out of examinations, not of the applying of the mercy death to people who were found insane in these concentration camps, was it?

A. Yes, this was done exclusively for the purposes of examination.

Q. Do you know anything about a connection of Heyde with the

A. No, I know of no connection whatsoever.

Q. Would you, as collaborator of Bouhler, take the responsibility for such activities of Heyde about whom you testified here that you are convinced that it would have been impossible that he would have lent himself to such activities?

A. I cannot assume responsibility for any acts of any person of which I know nothing. If I say that I am convinced that some person did the right thing, this certainly does not constitute a positive knowledge that the person concerned always acted correctly. This is purely an expression of my conviction. If any third person should have acted in an incorrect way, I certainly cannot assume responsibility for his acts.

Q. But you were the close collaborator of Bouhler, and Bouhler was in charge of the program. The top expert, the first top expert, of the program was Heyde and Heyde carried out these measures. I want to put to you Document No. NO-2799, which will be Prosecution Exhibit 497 for identification. This is an affidavit of a camp doctor in Dachau, Kuthig. I am reading from paragraph 3 - no, paragraph 4 - I'm sorry:

"In the fall of 1941 during an official visit by Dr. Lolling to my infirmary I was informed by him that a commission of four physicians under the direction of Professor Heyde would visit the Concentration Camp Dachau in a short while. The purpose of this commission was to select concentration camp prisoners who could not work for transfer for the purpose of euthanasia and to transfer them to the Concentration Camp Mauthausen to be gassed. The announced commission appeared a short while after this conversation with Dr. Lolling. It consisted of four psychiatrists, and the leader of the commission was Professor Heyde, who was also one of its members. I myself as well as the other camp doctors of the Concentration Camp Dachau had nothing to do with the commission or their work. I did see, however, that these four doctors were sitting at four separate tables between two barracks, and that many hundreds of concentration camp prisoners were formed up before them, and had to go to one of the doctors one by one. The prisoners

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were screened there according to incapability to work and their political documents and were selected accordingly. I know that this commission spent only a few days in Dachau and that it was impossible for them to give a medical examination to so many prisoners in so short a period. The examination consisted solely in the examination of the documents while the concentration camp prisoner was present. Selected in this action were prisoners, men of German nationality and citizens of other nations, Jews, etc. I can definitely state that Professor Heyde directed that commission, and that he was a member of it himself, although I have forgotten the names of the other doctors.

"In December 1941, several weeks after this commission had left the CC Dachau, the first transport consisting of several hundred CC prisoners who had been selected by this commission of psychiatrists left for the CC Mauthausen to be gassed, and another transport of prisoners, also consisting of several hundred selected by the commission, left for the CC Mauthausen in January 1942. I cannot swear whether there were more transports, as I was transferred from CC Dachau shortly after the second transport. The action of selecting prisoners unable to work for the purpose of euthanasia in CC Dachau was known under the name 'Aktion Heyde'."

DR. FROESCHMANN: Mr. President, I would like to put the question to the prosecution as to whether it intends to offer this Document NO-2799 in evidence.

DR. HOCHWALD: I offered it now for identification. We do intend to offer it as an exhibit but it was offered according to the ruling of the Tribunal for identification.

DR. FROESCHMANN: Mr. President, until such time as this Document NO-2799 is offered as an exhibit officially I object to this document's being shown to the defendant, because first of all we have not yet had the opportunity to look at the document beforehand, in order to investigate its probative value. In addition, it seems to me that this Dr. Julius Ruthig, who made this statement on 17 April 1947, can easily be made available so that he can be put on cross-examination.

DR. HOCHWALD: The witness is available for the defense for cross-examination. He is, as far as I know, in Dachau in confinement.

THE PRESIDENT: The objection is overruled. The counsel for prosecution may examine the witness concerning the document which has been identified and marked, which counsel states will be offered later. If counsel for the defense desires the witness for cross-examination, he will notify the Tribunal and the Tribunal will consider his request.
BY DR. HOCHWALD:

Q. Are you still of the opinion that the personality of Heyde

gave you the assurance that an examination carried out by him in a concentration camp could be for the benefit of the inmates?

A. If the contents of this document correspond to the facts, I should have to correct my opinion. I may point out to you that Heyde in the Fall of 1941 had already left the administration of euthanasia.

Q. You were a collaborator of Bouhler's, were you not? How far was it you went on your own initiative?

A. That depends entirely upon the circumstances. I really don't know what you mean by initiative. Do you mean, was I an ardent representative of euthanasia, or are you referring to the extent of my authority?

Q. No, I am asking you whether, in the circles which were informed of euthanasia in spite of the top secrecy of this program, you were considered as a representative to a certain time, 1944 for instance.

A. The question didn't come through.

Q. I asked you whether the people who were working in this program did not consider you from 1944 on as the representative of the euthanasia program sometime in 1944?

A. That perhaps is possible. It is possible that because of some error somebody considered me as a representative of that program from the year 1944 on. I should like to emphasize again, however, that in the year 1942 I left for the front and since that time had nothing at all to do with euthanasia or its administration. If any person in the year 1944 is of the opinion that I was Bouhler's representative in the euthanasia work, it would only be a blatant error. I wasn't even in Germany at that time.

Q. Did you, when the allies occupied Germany, make some arrangements that the gas chambers of certain euthanasia stations may be destroyed so that the evidence of euthanasia may disappear?

A. No, I made no preparations of that kind. I wouldn't have been in a position to do so. I never even thought about any such thing.

Q. Do you know whether or not Hitler issued an order to this effect?

A. I do not know who issued such orders. I think I can remember that such orders were issued. I think that Bormann was the most likely to give the order to destroy all the files and what not, but I really can't tell you that exactly.

Q. Did you pass down an order of this kind?

A. I really don't know when I should have done that.

Q. I do think in connection with the Hartheim euthanasia station -- am I correct in assuming that you said that Hartheim was a euthanasia station?

A. Yes, Hartheim was a euthanasia station.

Q. Do you remember having passed down an order that Hartheim should be destroyed?

A. No, I don't remember that.

Q. I want to put to you Document NO-2429, which will be Prosecution Exhibit 498 for identification. This is an affidavit of a certain Claussen. He states:

"That from the end of 1943 until March 1945 I was a prisoner on duty in the Arbeitseinsatz in Mauthausen where the administrative work was accomplished for Mauthausen and sub-camps; that in this office I did clerical work, such as making reports, keeping records, and corresponding with firms who used prisoners in the operation of their business; that in the course of my duties I saw a secret teletype message which to the best of my memory was as follows:

" 'TO THE CONCENTRATION CAMPS MAUTHAUSEN SS STANDA TENFUEHRER ZIERIS, HARTHEIM MUST BE DESTROYED IMMEDIATELY EXECUTION MUST BE REPORTED BY ORDER OF THE FUEHRER

OBERFUEHRER BRACK' "

Do you remember the teletype now?

A. No.

Q. Do you maintain that you never sent such a teletype?

A. I never sent such a teletype.

Q. I want to speak briefly now with you about the euthanasia of children, the Reich Committee for Research on severe hereditary diseases. You testified here that you had nothing whatever to do with that, is that correct?

A. I may correct myself. I said that I was not in charge. I had something to do with it and I talked about that at great length, during my examination. Please don't misunderstand me. I don't want you to understand I had nothing to do with it.

Q. What was your activity in this?

A. I had to submit to Reichsleiter Bouhler those individual files which had been completed by Linden's office regarding individual expertised cases which had to be decided. In a few cases I dealt with that personally and in other cases associates of mine did that work. In the same way I submitted these files once or twice to Brandt personally. Normally they were sent to him because he wasn't present.

Q. Did I understand you correctly that you testified here that in the case of euthanasia of children the previous consent of the parents and relatives was required?

A. Yes. I always maintained that. I said that in euthanasia of children, contrary to the euthanasia of the insane, the consent of the parents was already obtained.

Q. The consent for what, the consent for the giving of mercy death, or the consent to the transfer in the institution of the Reich committee?

A. No, the consent that all possible methods of treatment be used on this child, even in view of the danger that the child may die in that connection.

Q. In other words, their parents had to give their consent that Euthanasia would be administered to the child; is that what you want to say.

A. As far as I am informed, this was not always done in this particular form. A number of parents made direct applications, they said we ask that this child be relieved.

Q. Just moment, I understand that, but I do want to know what happened in the case where the parent did not ask for a mercy death of the child; were they informed they had to give their consent that the child may be administered a mercy death?

A. It was put to them that they give their consent for a mercy death being granted to the child and once they had given that consent the child was transferred to a Reichs Committee Institute by the treating physician.

Q. This Euthanasia of children was top secret; was it not?

A. I no longer know that, I don't believe it.

Q. Was it official in Germany and everybody could know about it and was informed about it; do you remember the witness Pfannmoller testifying here he never informed the parents as it was a top secret matter.

A. The execution of Euthanasia itself was certainly carried out in secret, but certainly I am not informed about that in detail.

Q. The treatment of children, I am only speaking about children.

A. I am only speaking about children, yes.

Q. How could it be possible if it was very secret that every official doctor in Germany, who had to report these cases, could give the children's address and he was not supposed to know about it.

A. I beg your pardon, every person who had to deal with the secret matter was of course informed of it, that always includes the respective treating physician or the head of the clinic.

Q. Then approximately in 1940 50% of the German doctors know; is that right?

A. That I cannot judge, I cannot say how many there were.

Q. I will read now from your document book, Supplement 3, document 52, Brack exhibit 43 on page 23 of Supplement 3. Your Honors, the last sentence:

"It is the business of the medical officers to inform the parents of the child in question, of the treatment available in the actual institute or department chosen and to induce them to send in their child more promptly. Here the parents should be told, that in the case of individual diseases, there is a possibility of achieving certain success with treatment even in cases which hitherto had to be regarded as hopeless."

I have received the impression from what I am reading here from your own document that the official doctors really had the task to ask the parents to give their consent to a mercy death of the child.

A. I cannot tell you anymore than I have already said, even during my interrogations, namely that that order had been given that the consent of the parents had to be obtained, even if in one or the other case that would have to be done in a somewhat camouflaged form.

In principle, the parents were to be informed that it would be better if the child were put to sleep.

Q. So, I would like to read from page 21 of your Document book. This is your document 51, your exhibit 42, on page 21 of Supplement 2:

"By virtue of the arrangements made by the Reich Committee, the best care will be taken of the child here and everything possible in the way of modern therapy will be carried out."

Can you read out of this sentence that the parents were informed that the children should be administered a mercy death?

A. I certainly cannot deduce that from this sentence, but you must in that connection have the basic decree dated 18 August 1939 and in

addition the discussions and the conversations with their parents had with the doctors that were treating the child.

Q. In the document which I have just read, it is exactly stated what the doctor is supposed to tell the parents. All right, let us go on, You remember that Dr. Pfannmueller testified here about the treatment of euthanasia of a child was initiated, he invited the parents and relatives to visit the child; do you remember that?

A. Yes, Dr. Pfannmueller said that.

Q. None of the parents or relatives ever told that they themselves gave their consent to give the child the privilege of a mercy death; otherwise he would not have stated here that it was a top secret matter and he would never have spoken to the parents about it.

A. Well, there is nothing I can say about that, I really don't know.

Q. I would like to put to you again document No. 825, this is prosecution exhibit 358, it is in document book 14, part 2, page 219. Your Honor, this is a Document which we have been speaking about at great length yesterday afternoon. You spoke yesterday about it.

A. I have not received the Document.

Q. You testified yesterday about this document in great length and told us why questionnaires were filled out about people who were not of German nationality or not of German or German related blood and for this simple reason these people were not administered a mercy death; is that right?

A. Yes, that is true.

Q. The Jews could not get these privileges because they were not considered Germans and also to foreigners the authorization of the Fuehrer did not apply; is that right?

A. Yes.

Q. Will you give me now your information why under number three, questionnaires had to be filled out for all interned criminally insane persons without the question of whether they were able to work or

suffering from a disease; just all of them?

A. I don't know.

Q. You displayed considerable knowledge yesterday about this document; can't you inform us why that was done?

A. Those are psychological conditions which I could not possibly evaluate. Regarding the ability to work, I also said that I could not judge to what extent the ability to work constitutes a source of psychological knowledge, and the same is true of criminality.

Q. That is absolutely right, but the people under number three had also to have the questionnaires filled out, whether they could work or not. You say here before "number three, or are interned as criminally insane people," and you yourself yesterday testified to the effect that it all makes a difference between point one and the other three.

A. I did not say that.

Q. I think so.

A. I said very clearly that either those would be considered who are contained in paragraph one, or those of paragraph two, or paragraph three, or paragraph four! That is what I said.

Q. Can you tell me then, why it was necessary to fill out questionnaires on all people who were interned as criminally insane persons, according to part three of the document.

A. Possibly because criminality also represents a special possibility for the psychiatrist to judge the progress of the illness. Personally I cannot evaluate that.

Q. Did that relate to all other persons — namely all insane persons, the privilege of mercy death that the subjects were given?

A. No, had that been the case a directive would have had to be issued to the experts to the effect that every insane patient, in whose case this paragraph was affirmed, would have to be released for Euthanasia. I, however, never heard of any such directives given to the

exports.

1. You testified this morning that you had no knowledge about Euthanasia carried out in Poland when questioned by the Tribunal ; is that correct?

A. No, what I said was that I know of no Euthanasia institutions in Poland.

Q. Do you know of the carrying out of Euthanasia in Poland?

A. I know nothing of the execution of Euthanasia in Poland.

Q. Did you ever concern yourself with the transfer of Polish insane people?

A. No.

Q. Did you ever issue the funds for such transfers.

A. I certainly did not.

Q. Did you ever make arrangements for the transfer from the Reich cashier or Reich Treasury?

A. In principle I had to apply for funds to be given to me from the Reich Treasury for Euthanasia by order of Bouhler, but I really cannot remember the details of this.

Q. I am asking you entirely about the transfer of insane people from Poland, not in Germany or in East Prussia?

A. I cannot remember that.

Q. I want to put to you document 2908 which will be Prosecution's exhibit 499 for identification. I would like for you to read -- to read to you the first paragraph of this letter:

"The so-called Special Detachment LANG, which has been put under my command for special tasks, was ordered to Soldau in East Prussia from 21 May to 6 June 1940, according to the agreement made with the Reich Main Security Office (RSHA) and during that time evacuated 1,588 patients from the Soldau transit camp."

Do you have any recollections now?

A. No.

Q. "At that time I arranged with SS Gruppenfuehrer Rediess that an amount of RM. 10. - would have to be paid for the evacuation of each patient. There would, therefore, be a sum of RM. 15,580 to be paid into the account of the SS Main Sector Wartha, according to the agreement."

I do not want to read any further. Do you remember anything about this money?

A. No, I remember nothing at all.

Q. I would like to put to you then document No. 2909, which will be Prosecution's exhibit No. 500 for identification. This is a letter concerned with the same subject. It is to SS Gruppenfuehrer Wolff.

"Enclosed I submit to you a demand of SS Gruppenfuehrer Keppe, addressed to the higher SS and police leader northeast, SS Gruppenfuehrer Sperrenberg, who has forwarded it to me for reply.

"The letter of SS Gruppenfuehrer Keppe deals with the evacuation of 1,558 mental institution inmates of the provincial institutions of East Prussia. To those must be added, to my knowledge, about 250 to 300 insane persons (Polos) from the area of Zichenau, which has been annexed to East Prussia."

Do you remember anything about that now?

A. No, in no way at all.

Q. Please look at the second to last paragraph on page 4 --

Your Honor, this is wrong, it should be page 2, I am sorry.

"The advance which Criminal Commissar Lange had received from the Inspector of the Security Police and the SD, SS Oberfuehrer Rasch was taken from government funds, to my knowledge. By virtue of this fact alone the matter assumed for me the aspect of a Reich assignment."

On the left side of the paragraph is a handwritten note, your name; do you remember that?

A. Oh, it is not here.

Q. I think it is there. Will you hand him this.

(A document was handed to the witness)

A. That is not my name.

Q. I did not say you wrote it, but it is your name. I did not say you wrote it.

A. I do not believe that is my name.

Q. Do you remember the case; do you or don't you?

A. I already said I know nothing at all about this matter.

Q. Will Your Honor permit me to put another document to the witness.

So, I put to you then, document 2911, which will be Exhibit 501 for identification.

DR. FROESCHMANN: May I interrupt for a minute. I cannot see the name Brack contained in any of the two documents which have been submitted to me. All I saw was the name of Dr. Rasch.

Q. Did you ever have any telephone conversations with SS Gruppenfuehrer Wolff in this matter?

A. I do not know that.

Q. You told me just now you could not remember the case. Can you exclude the fact that you made arrangements for the transfer of those 250 or 300 Poles?

A. I can say nothing about that, because I do not remember the entire affair in any way.

Q. But you cannot exclude it, can you?

A. What do you mean I cannot exclude it?

Q. That you advanced the plans for this purpose, can you? You said that you could not remember. Can you exclude the fact that you

ever had anything to do with this case?

A. Yes, I would exclude the possibility.

Q. In spite of the fact your name appears on two of these three documents?

A. But, I know nothing of them.

Q. Somebody obviously got the money from you?

A. I must read the document and see whether anyone got any money. I cannot remember anything.

Q. Is it not obvious from this note -- document 2909, which was sent to Obergruppenfuhrer Wolff that he received the letter saying you forwarded this money, and that he spoke over the telephone, or one of his people in his office spoke to you over the telephone about this matter. Is it not obvious from these two documents?

A. Wolff could not give me any order to give money to any one or for any purpose.

Q. I did not say he gave the order, but he asked you for it, and it was used in the Euthanasia business?

A. That matter is entirely strange. I think it is quite impossible that even one pfennig had been given by Fuhler for that purpose. I am completely excluding that possibility.

Q. How do you then explain these two pencil notes on 2909, Brack; and 2911.

A. I can read these two notes and it is possible that it does say Brack, but I cannot explain them.

DR. HOCHWALD: If Your Honors, want to adjourn, I have no further questions to the witness on this subject.

DR. FLETCHING (For the defendant Krugowsky): Mr. President, I shall not call the witness Scharlau, but I shall submit an affidavit by him. May I put no question, Mr. President.

The Tribunal on Thursday, last week, when discussing the form of Pleas of the argument had provided that a discussion would take place today. May I ask whether that is to take place today; if not, when such a discussion will take place?

MR. HARDY: Your Honors, I don't know what attitude the Tribunal has taken on this but this proposition has slipped my mind for a day or two due to other matters and if possible to arrange the meeting on Monday or Tuesday it would meet with the approval of Prosecution.

I do not remember that the meeting was fixed for today. We said tentatively last Friday we would have the meeting this Friday and if convenient to the Tribunal we could meet the first of the week and discuss it more extensively.

THE PRESIDENT: That would be better. Counsel will consult with the Tribunal and we will discuss that in detail.

The Tribunal will now be in recess until 9:30 Monday morning.

Official Transcript of the American Military
Tribunal in the matter of the United States
Of America, against Karl Brandt, et al,
defendants, sitting at Nurnberg, Germany, on
19 May, 1947, 0930, Justice Beale presiding.

THE MARSHAL: Persons in the court room will please
find their seats.

The Honorable, the Judges of Military Tribunal 1.

Military Tribunal 1 is not in session. God save the
United States of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the
defendants are all present in court.

THE MARSHALL: May it please your Honor, all the
defendants are present in the court with the exception of
the Defendant Gebhardt who is absent due to illness.

THE PRESIDENT: The Secretary-General will note for
the record the presence of all the defendants in court
save the Defendant Gebhardt who will be excused on account
of illness, pursuant to a certificate from Dr. Martin the
prison surgeon. The Secretary will file the certificate
for the record.

Counsel may proceed.

VIKTOR BRACK - Resumed

CROSS EXAMINATION (Continued)

BY DR. ROCHWALD:

May it please the Tribunal. Herr Brack, I have a
few questions for you about your affidavit, I am referring
to Document No 426, Prosecution Exhibit 160, on page 10
of Document Book 14, part 1. You signed this affidavit,
did you not?

A. Yes. It is not before me to sign.

Q. This is the affidavit you spoke about several times. I don't think it is necessary that you have it before you, I do not want to go into the details of the document itself. Did somebody compel you to sign this affidavit?

A. Compel is certainly not the right expression. I felt innerly obliged to sign the statement without being conscious at that time that many of the things contained therein were either incorrect or incomplete. This only entered my mind later when, on the basis of the documents, I was able to ascertain that many of the things were not represented corresponding to the facts.

Q. But nobody told you you would be punished or you would have some disadvantages if you would not sign it, is that correct?

A. There was no threat expressed towards me.

Q. Is it not true that you were permitted to make changes in the wording and in every other respect in the affidavit?

A. I was permitted to make changes. It was pointed out repeatedly, however, that the word I had suggested was difficult to translate and I was therefor asked to admit another expression with which I basically did agree, but they convinced me.

Q. Is it further not true that you made changes in the affidavit, that changes were made on your suggestion and on the basis of your information?

A. Yes, a few changes were made.

Q. And what about the chart, you signed this chart. How did it come about? How was the chart made?

A. I have already described that. I think a female draftsman drew up this chart in my presence. I helped her as far as I could give any indications. I don't know

to what extent I emphasized at that time that any such chart had not existed before, and that this was a completely new construction of that organization. The sketch which I drew up did in no way answer the requirements.

Q. But you drew up a draft, didn't you?

A. Yes, I made an attempt to draw it up but I did not succeed.

Q. Do you remember the draft well?

A. You mean the one I signed?

Q. The draft you made yourself in the prison, not in the interrogation room.

A. No, I don't remember it. It was incomplete and insufficient.

Q. Do you remember whether there was a basic difference between the draft and the chart as to the position of Bouhler and Brandt?

A. I really can't tell you that.

Q. All right. We have the draft and I want the right to put to you this document NO 2758 which will be Prosecution exhibit 502 for identification, your Honor.

(Document handed to the witness.)

Q. Is this the draft?

A. Yes.

DR. HOCHWALD: If your Honor please, may the record show that the witness acknowledged this draft as the draft he made in the prison.

THE PRESIDENT: The record will show that the witness upon examination of Prosecution Exhibit for identification 502 stated that this was a copy of the draft which he made while in the prison.

BY DR. HOCHWALD:

Q. Now I want to discuss with you the sterilization

of the Jews. You testified here, in a sense, that you were opposed to the program of exterminating the Jews and, therefore, together with your collaborators, conceived and forwarded plans for a less drastic and ruthless solution of the Jewish problem, is that correct?

A. Yes.

Q. Who was the collaborator or the former collaborator of yours who first told you that the plan of exterminating the Jews was conceived?

A. That, I think was Dr. Hevelmann.

Q. And who were the collaborators with whom you made this plan to make to Himmler the suggestion of sterilization?

A. I can't give you the names in detail now. At any rate Dr. Hovelmann participated here.

Q. Did Blankenburg participate in this plan about Madagascar, and so forth?

A. Yes, he certainly did participate, but the people most interested in this plan were experts which had nothing to do with the Chancellery of the Fuehrer, for instance the witness Legationsrat Rademacher, for whom I had asked as a witness and there were also a number of other agencies who could inform us about the circumstances involved.

Q. But Blankenburg collaborated, did he?

A. I believe, yes.

Q. Am I mistaken in assuming that you wanted to prevent extermination of the Jews, as you and your collaborators considered this to be a crime?

A. No, that is what I testified.

Q. Did you consider the extermination of the Jews a crime?

A. Yes, we considered it a crime. We did not consider it worthy of the German people. We considered it to be irresponsible towards history. That, I think, is the expression I used.

Q. You and your collaborators were of this opinion?

A. Yes, we were of this opinion.

Q. You made the first plans, for the resettlement of the Jews in a far away country, for example in Madagascar, is that correct?

A. Yes, that is true.

Q. And when these plans were not accepted you approached Himmler with the suggestion to sterilize the Jews, but in reality you did not want the Jews to be sterilized. You did that just in order to prevent more brutal measures from the part of Himmler or Hitler, did you not?

A. That does not exactly correspond to the facts, but according to its sense it does correspond to what I intended.

Q. Is it not true that in 1941 when you forwarded your report to Himmler, -- I am referring to Document 203, Exhibit 161, Document Book 6, on page 35 to 37 of the Document Book 6, is it not true that it was then a matter of common knowledge that it was very well possible to sterilize people with X-rays, is it not?

A. I cannot judge that, it was my personal point of view that it was not possible.

Q. Well, did you not expect that Himmler would have checked the record with a specialist and would have easily found that the matters you suggested were not effected; if you were of the opinion you could not sterilize people with X-ray?

A. No, I didn't expect that, because I believed to know the mentality of Himmler sufficiently to realize that he would positively react to any suggestions which fitted into his plans.

Q. Did you not expect that every doctor who would have been charged by Himmler with the carrying out of sterilization in this suggested manner would have reported to Himmler at sterilization in such a way would be possible?

A. That is what I feared in the course of time, but I hoped that until the moment when these matters cristalized so much time would have passed that the war had come to an end.

Q. Did you testify here according to document 205, -- this is Prosecution Exhibit 163, Document 6, page 39, this is the second report to Himmler in 1942, that you did not write this letter?

A. I cannot even confirm it now with any amount of certainty whether I wrote this letter myself or whether somebody else formulated it.

Q. But I presume that you read this letter rather carefully, did you not, before you signed it?

A. I really cannot say that after so much time has elapsed. I

really don't know.

Q. How many personal letters did you write during the year to Himmler?

A. There is nothing I can say about that. At any rate there must have been very few.

Q. I do presume that if you sent one of these few letters to your highest SS Commander you read them rather carefully, did you not?

A. That depends entirely on the situation. It depends when such a letter is put before you for signature. I can no longer tell you that.

Q. But the topics of the letter were of a quite important nature, were they not, so I do expect you rather carefully read the thing whether it fitted into the plan you made?

A. I have already testified that I consider the possibility that this letter was sent on to me to the front for my signature. If it has arrived when I happened to be in some critical situation it is quite possible that I didn't read it too carefully, but just signed it in order to get rid of it. After so much time I can really give you no information on that.

Q. You heard here the testimony of the witnesses Levy and Berlitzky?

A. Yes.

Q. Are you still, after hearing this testimony, of the opinion that your suggestions were made for the benefit of the Jews?

A. At any rate it is my opinion that these suggestions delayed this action considerably and thereby prevented much evil being caused. During my direct-examination I already pointed out that the first report which was not in itself submitted here, but of which we had the covering letter, was only made about an year and a half later, so that the delay is quite obvious and easily recognizable. I don't know whether I remember correctly, but I believe that the witness Berlitzky stated that the sterilization experiment on him only took place in the year 1943.

Q. I hand you now this second letter of Himmler and would ask

you a few questions in connection with it; will you look at the second paragraph of this letter; this is Document 205, Your Honors, Prosecution Document 163, Document Book 6, page 39, and in the second paragraph it states: "Among 10 millions of Jews in Europe are, I figure, at least 2-3-millions of men and women, who are fit for work." It seems to me your plan would have only worked for these 2 or 3 million; what would have happened to the other 7 or 8 million; you are speaking only in this plan of organization of the people who are able to work. What did you expect would happen to the 7 or 8 million who were not able to work?

A. I expected the very same thing to happen to them as to the two or three million. In connection with what I have already testified during my direct examination, to the effect that in the year 1942 the war possibilities from my point of view were not bad at all and that we actually counted on a quick end to the war, since we continued to advance in Russia. If I could bring about a certain delay in this action I hoped that in conditions of peace we could, under circumstances, carry through the Madagascar plan, which had previously been rejected.

Q. But I do see the delay only --
Perhaps you can advise me, - but I do see the delay only with regard to the people you attempted to be sterilized. I do not see the delay for the 7 or 8 million who were not able to work and therefore would not be sterilized, is that correct?

A. No, it certainly is not correct. Until one can select people who are fit to work, until the entire organization is set up, months and months must necessarily elapse.

Q. You speak in the same document about the people whom you placed at the disposal of Globocnick. Was Wirt among the people you placed at the disposal of Globocnick? -I mean the director of the Brandenburg euthanasia station.

A. No, he was not the director of the euthanasia station. He was the official, the registry official.

Q. I mean this Wirt, who was active in Brandenburg.

A. He certainly was not among them, because after the stop of the action in 1941 many releases were ordered by Bouhler and it became superfluous, if I may call it that way, to maintain the registry offices, and also other offices became superfluous. For instance, we no longer needed trained nurses; therefore, a great number of employees of the euthanasia organization were either dismissed or insofar as they were put at our disposal only they were sent back to their old offices.

Q. Right, but did you say that Wirth was among them or not; Wirt?

A. I assume with certainty that Wirth cannot have been among them because Wirth was a police officer and as such was sent back and put at the disposal of his superior agency in August or September 1941.

Q. What about Schumann? He was the chief doctor in a euthanasia station, was he not?

A. Yes, Schumann was the head of the euthanasia station. I saw him for the last time on the occasion when we tried to rescue the wounded in the Winter 1941-42.

Q. Was Schumann among the doctors you put at the disposal of Himmler for the examination in the concentration camps?

A. I put no physicians at the disposal of Himmler for the purpose of the extermination of Jews.

Q. No, I said examinations in the concentration camps. We mentioned this in your interrogation and you spoke of it in your direct examination and also with me on Friday. This examination which was carried out on orders from Himmler in different concentration camps. Did you not say that

you went to T-4 and asked that certain doctors be put at the disposal of Himmler and that among them was Schumann along with other doctors for the examinations in concentration camps?

A I have already said that I transmitted this request of Himmler to the T-4, I further said that I had no idea who on the part of T-4 was entrusted with the medical examinations.

Q Alright, I would like to put to you Document No. 3010, Prosecution Exhibit 503 for identification, Your Honors. This is an affidavit of Dr. Geryass, who was also in the Euthanasia program as you told us Friday. I am reading from paragraph two:

"In the beginning of my activities in the Euthanasia program I was informed that Professor Karl Brandt was the chief and Viktor Brack the executive head of Euthanasia. I was convinced that Brandt was the leading spirit and Brack the operator of the so-called Euthanasia.

"In June 1941 I was ordered to accompany Dr. Schumann on an official trip to the concentration camp Buchenwald. The purpose of this trip was to acquaint me with the assignment of concentration camp inmates for Euthanasia institutions. This was my only visit to any concentration camps. Dr. Schumann was shown approximately 100 concentration camp inmates by the camp physician in charge and questionnaires were filled out. They were not merely insane persons. According to my best knowledge and belief our one day visit in the concentration camp Buchenwald was made at Brandt's order issued by Brack.

Police Captain Wirth, whom I knew personally and who was administrative director in several Euthanasia institutions, told me late in summer 1941 that he had been transferred by the 'foundation I' and I put to you that was the foundation for Euthanasia care...."to a Euthanasia institute in the Lublin area."

You do not know anything about that?

A No, I know nothing about that, nor do I know that I had sent Dr. Schumann to the Buchenwald concentration camp.

Q Is the name Morgen familiar to you, M-o-r-g-e-n?

A Yes.

Q You know who he is, will you tell the Tribunal who Morgen is?

A During the trial here the testimony of Morgen was shown to me by my defense counsel and for that reason I know that Morgen was a former SS judge and testified before the International Military Tribunal.

Q As a defense witness for the SS; did he not?

A I don't know that.

Q He was a defense witness for the SS organization and I would like to read to you parts of his testimony here. This is Document No. 2614, Prosecution Exhibit 504 for identification, Your Honors.

DR. SERVATIUS: (Counsel for the defendant Karl Brandt) Mr. President, in connection with the Document No. 3010, I reserve the right to call the witness Gorgass to the stand in order to examine him in cross-examination. I shall make a written application to that effect. This is again one of the documents wherein is stated by the witness that it was made clear to him that Professor Brandt played a considerable role in that program. I should like to at least have one of the witnesses here in order to have him tell us just exactly what was done here and what was made clear to him. It is my impression that a certain amount of propaganda was made in connection with the name of Dr. Karl Brandt after he had withdrawn from the Euthanasia program for a long time. That is the reason why I want this witness to testify here and I shall make a written application to that effect.

THE PRESIDENT: If the counsel for the defendant Karl Brandt will file his application it will be promptly acted upon by the Tribunal.

BY CAPTAIN HOCHWALD:

Q I am reading from the last answer on page two, Your Honors.

"When Wirth took over the extermination of the Jews, he was already a specialist in mass destruction of human beings. He had previously carried out the task of removing the incurably insane. On behalf of the

Fuehrer himself, through the Chancellory of the Fuehrer.." and the Chancellory of the Fuehrer was Bouhler's office; was it not?

"....At the beginning of the war he had set up a detail probably from agents and spies of the criminal police. Wirth described how he went about carrying out this assignment. He received no aid, no instructions, but had to do it all by himself. He was given an institution in Brandenburg. There he undertook his experiments. After much consideration and many individual experiments, he came to his later system, and then this system was used on a large scale.

"A commission of doctors previously investigated the files, and those insane who were considered to be incurable were put on a separate list. Then the institution one day was told to send these patients to another institution. From this institution, the patient was transferred again, often more than once. Finally he came to Wirth's institution. There he was killed by gas and cremated.

"This system which deceived the institutions and made them unknowing accomplices, this system that he worked out with very few assistants for being able to exterminate large numbers of people, this system was now employed with a few improvements in the extermination of Jews. He was also given the assignment by the Fuehrer's Chancellory to exterminate the Jews."

Question by the defense counsel: "The statements which Wirth made must have surpassed human imagination. Did you believe Wirth?

"Answer: At first it seemed completely fantastic to me, but in Lublin I saw one of his camps. It was a camp in which I found part of the property of his victims. From the number of them -- there were a great number of watches piled up -- I had to realize that atrocities were being committed here. I was shown the valuables. I never saw so much money, especially foreign money -- all kinds, from all over the world. In addition, there were gold bars.

"I also saw that the headquarters from which Wirth directed his operations was very small and inconspicuous. He had only three or four

people working there for him. I spoke to them too. I watched his courier arrived from Berlin, Tiergarten Strasse, the Fuehrer's Chancellory. I investigated Wirth's mail.

"Of course, I did not do all of this at this first visit. I was there frequently. I persecuted Wirth up to his death.

"Question: Did Wirth give you names of people who were connected with this operation?

"Answer: Not many names were mentioned for the simple reason that the number of those who participated could be counted on ones fingers. I remember one name: I think the name was Blankenburg, in Berlin."

Blankenburg was your deputy, was he not?

... Yes, Blankenburg was my successor when I left for the front.

Q. Were you not mistaken in testifying here that Bouhler would never have lent his hand to the extermination of the Jews?

A. I can only say according to my knowledge Bouhler gave no assistance for that purpose. What the witness Morgen is testifying here is the contents of a conversation he had with Wirth in the year 1943. I was a soldier in the year 1943.

DR. FROESCHMANN: Counsel for the defendant Viktor Brack.

Mr. President, perhaps the Prosecution would be kind enough to ascertain from the transcript to what time the statement of Morgen referred. As far as I can see from the original document it refers to the year 1944, it is for 1943 or 1944.

DR. HOCKWALD: I can't tell you that. The examination was made in 1944 but I am not able to say when this thing took place. Would you give me again this thing? (Document)

DR. FROESCHMANN: Mr. President, I think it is very important to find out here to what time this statement of Morgen refers. In the year 1944 the defendant Brack had been with the army for two years and in the year 1943 he had been there for one year. I think it is one of the most primitive requirements for the prosecution to ascertain what year the statements refer to.

DR. HOCKWALD: I think Dr. Froeschmann is at liberty to use this whole document, so he can ascertain from the document whatever he wants. It is the right of the Prosecution to put to the witness questions from a part of the document.

THE PRESIDENT: It is, however, only fair to the witness to give the witness all of the information the document discloses.

DR. HOCKWALD: Your Honors, I certainly will.

THE PRESIDENT: Counsel for the Prosecution will ascertain as soon as possible to what year the witness was testifying to when he gave the testimony which is before the Tribunal in the transcript.

DR. HOCKWALD: I shall do so at the earliest possible moment.

WITNESS:

A. To what extent this report of Wirth's to Morgen corresponds to the facts I cannot judge in any way. One thing, however, is quite clear. What he has described as his activities and participation in the euthanasia program does not correspond to the facts, because Wirth was employed as a registry official and as such had to do office work and could in no way have the possibility of actively participating in the euthanasia. That was exclusively the task of the responsible physician and never the task of the civil servant. To that extent his information regarding Brandenburg must be altogether false as far as I can judge.

BY DR. HOCKWALD:

Q. You never cooperated in the program of extermination of the Jews, is that correct?

A. No, I personally never did.

Q. Is the name Eichman, Obersturmbannfuhrer Adolf Eichmann, familiar to you?

A. Yes, the name became known to me now.

Q. You didn't know him before? That means during the war?

A. No, not to my knowledge.

Q. Did you know anything about his activities during the war, from your own knowledge, not what you heard now?

A. I cannot remember ever having heard the name Eichman before.

Q. In order to keep the record straight I would like to offer document No. 2737. This is an excerpt of the judgment of the International Military Tribunal about the activities of Eichman and I would like to ask the Tribunal whether I should give an identification number to this document or whether the Tribunal will take judicial notice of the document?

THE PRESIDENT: While the Tribunal will take judicial notice of the

document mentioned, it would be convenient to have an identification number for the purpose of identification only.

DR. HOCKWALD: So it will be Prosecution Exhibit 505 for identification then: Extract of the judgment of the International Military Tribunal.

INTERPRETER: Will you wait one moment, doctor?

BY DR. HOCKWALD:

"In the summer of 1941, however, plans were made for the X 'final solution' of the Jewish question in all of Europe. This 'final solution' meant the extermination of the Jews, which early in 1939 Hitler had threatened would be one of the consequences of an outbreak of war, and a special section in the Gestapo under Adolf Eichmann, as head of Section B4 of the Gestapo, was formed to carry out the policy.

"Adolf Eichmann, who had been put in charge of this program by Hitler, has estimated that the policy pursued resulted in the killing of 6,000,000 Jews, of which 4,000,000 were killed in the extermination institutions."

Q. Did you ever have any conferences or discussions with Eichmann concerning the extermination of the Jews and the solution of the Jewish problem?

A. I already said that I did not remember having heard the name Eichmann at all.

Q. I want to put to you document No. 997, which is Prosecution Exhibit 506, for identification, your Honors. This is a draft of a letter from the Reich Minister for the Occupied Eastern Territories to the Reich Commissioner for the East:

"Solution of the Jewish Problem.

"Reference: Your report of 4 October 1941, concerning the solution of the Jewish problem.

"I have no objection against your suggestion for the solution of the Jewish problem. Attached please find a memorandum concerning the conversation between my referent Amtsgerichtsrat Dr. Wetzel, Oberdienstleiter Brack from the Chancellory of the Fuehrer and Sturmbannfuehrer Eichmann, referent to the Reich Security Main Office. From this memo, please be advised about the details of the matter. Will you, please, take the necessary steps at the Reich Security Main Office and with Oberdienstleiter Brack from the Chancellory of the Fuehrer via your Higher SS and Police Leader. Please keep me informed.

(Handwritten) F.D. H.H.

(For the minister)

(2) Copy

(A) Reich Security Main Office

(B) Chancellory of the Fuehrer
Attention: Oberdienstleiter Brack,
Copy of (1), including enclosure for information."

Q. Did you receive a copy of this letter.

A. May I first ask you what the date of this letter is?

Q. Only 1941 is mentioned here. But this is the date of the draft that is what I told you. Did you receive a copy of this letter, Herr Brack?

A. I did not receive a copy of it nor did I even see a copy of that letter nor do I know this Amtsgerichtsrat Wetzel.

Q. Did you have conference with Eichmann on this problem, on the solution of the Jewish question?

A. I already said I cannot even remember the name Eichmann, nor can I remember the name Wetzel.

Q. Do you know something about the matters discussed at this conference as to the solution of the Jewish problem?

A. No, I know nothing.

Q. You have no idea. You never made any suggestions as to what kind of treatment or what kind of gas chambers should be used for the solution of the Jewish problem? You never did do that?

A. I can remember nothing in this connection.

Q. You were questioned by the Tribunal, questioned by the Tribunal last Friday, as to whether plans were made for the construction of the gas chambers in the euthanasia stations or whether the engineer or specialist was ordered to assist the directors of the stations in setting up such gas chambers, were you not?

A. Yes.

Q. You were not able to give any information to the Tribunal on that fact, were you?

A. No, I was saying I didn't concern myself with these matters.

Q. Is the name Kallmeyer, K-a-l-l-m-e-y-e-r, familiar to you?

A. Yes, but I really don't know just where he belongs.

Q. His wife executed an affidavit for you here, that is your Document 39, Exhibit 23, page 60 of your Document Book II. Do you remember him now?

A. Yes, yes, I remember him now.

Q. Was Kallmeyer the engineer, or he was a chemist, who made these plans for gas chambers and assisted the directors in euthanasia stations in setting up these gas chambers?

A. No. Kallmeyer was to check that the gas chambers were always operating properly, but I don't believe he made any plans for that purpose.

Q. Kallmeyer was the man who supervised these gas chambers, was he not?

A. I believe, yes, but not for long, only for a short time.

Q. All right. And does the name Kallmeyer refresh your memory as to eventual plans you made together with Eichmann about the solution of the Jewish problem, Herr Brack.

A. No.

Q. I want to put to you Document NO-365, which will be Prosecution Exhibit 507 for identification, Your Honors. This is a draft of the Reich Ministry for the Occupied Territories dated Berlin, 25 October 1941.

"Referee AGR. Dr. Wetzel

"Re: Solution of the Jewish Question.

"1. To the Reich Commissioner for the East.

"Re: Your Report of 4 October 1941 Concerning Solution of the Jewish Question.

"Referring to my letter of 18 October 1941 you are informed that Oberdienstleiter Brack of the Chancellery of the Fuehrer has declared himself ready to collaborate in the manufacture of the necessary shelters as well as the gassing apparatus. At the present time the appa-

ratus in question are not on hand in the Reich in sufficient number; they will first have to be manufactured. Since in Brack's opinion the manufacture of the apparatus in the Reich will cause more difficulty than if manufactured on the spot, Brack deems it most expedient if he sent his people directly to Riga, especially his chemist Dr. Kallmeyer, who will cause everything further to be done there. Oberdienstleiter Brack points out that the process in question is not without danger, so special protective measures are necessary. Under these circumstances I beg you to turn to Oberdienstleiter Brack in the Chancellery of the Fuehrer through your Higher SS and Polizeifuehrer and to request the dispatch of the chemist Dr. Kallmeyer as well as of further aides. I draw attention to the fact that Sturmbannfuehrer Eichmann, the referee for Jewish questions in the RSHA, is in agreement to this process. On information from Sturmbannfuehrer Eichmann camps for Jews are to be set up in Riga and Minsk to which Jews from the old Reich territory may possibly be sent. At the present time Jews being deported from the old Reich are to be sent to Litzmannstadt, but also to other camps, to be later used as labor (Arbeitseinsatz) in the East so far as they are able to work.

"As the affairs now stand, there are no objections against doing away with those Jews who are not able to work, with the Brack remedy. In this way occurrences such as those which, according to a report presently before me, took place at the shooting of Jews in Wilna and which, considering that the shootings were public, were hardly excusable, would no longer be possible. Those able to work, on the other hand, will be transported to the East for labor service. It is self-evident that among the Jews capable of work men and women are to be kept separate.

"I beg you to receive advice regarding your further steps."

Q. Herr Brack, are you still going to maintain what you said here in direct examination that you tried to protect the Jews and to save the Jews from their terrible fate and that you never were a champion of the extermination program?

A. I should even like to maintain that misuse, terrible misuse, was made with my name. I see from this letter and from the date of this letter that all these negotiations were carried out at a time when I was far away from Berlin, when I was on sick leave. If I have the possibility, I hope I shall be able to bring witnesses who will testify to that effect. I must openly admit that at this period of time something was going on which was entirely in contradiction to my opinion but that this only could be done under misuse of my name and my agency. I did not declare myself ready for these things.

Q. Can you tell me, Herr Brack, where Riga and Minsk are located?

A. Riga is in the Baltics in Latvia and Minsk is in Russia.

Q. These two places were outside of Germany, were they not?

A. Yes.

Q. Prosecution has no further questions at this time.

THE PRESIDENT: The Tribunal will now be in recess for a few minutes.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

MR. HOCHWALD: If the Tribunal, please, I would like to ask the witness two or three more questions.

THE PRESIDENT: Counsel may proceed.

CROSS-EXAMINATION
(continued)

BY MR. HOCHWALD:

Q Herr Brack, when you made your report, your first report on sterilization to Himmler in March 1941, this is Document 203, NO 203, Prosecution Exhibit, No. 161 on page 35 to 37 of Document Book 6, Your Honor. You were very interested in the question whether the people going to be sterilized would know whether they are sterilized or not, would gain knowledge of this procedure; is that correct?

A No, that was Himmler's wish.

Q That they should not know?

A Yes, That the people shouldn't notice it.

Q Let's turn now to Document 245, which is in the same book on page 39, and Prosecution Exhibit 163,—

JUDGE SEBRING: Dr. Hochwald, is that the one dated 23 June 1942?

DR. HOCHWALD: Yes, it is this one, 23 June 1942.

Q In this document there is no mention made any more about that, but you say here "I think that at this time it is really irrelevant whether the people in question become aware of having been castrated after some weeks or months, and they feel the effect." So you dropped or Himmler dropped this pretense; is that correct?

A It was like this, in the first letter to Himmler it was pointed out that an execution of sterilization without the persons noticing it was unlikely. Those doubts which Himmler had, had to be dissipated so that he might approve this suggestion; that is how I explained this sentence.

Q Were you of the opinion then, in June 1942, Herr Brack, that the war was won for Germany, or as good as won?

A That I really can't say.

Q I remember that you told me something of this kind when I questioned you today on this document, that you expected in a very short time the victory of Germany, and therefore wanted to postpone the final solution of the Jewish program and hoped that the few months which your suggestion will give the Jews would suffice for them to survive the War?

A No, I said that I hoped that the War would end soon, whether that would be a clear German victory no one could predict, but in any case I and all of us hoped the War would come to an end.

Q But you did not expect then that Germany would lose the War in a short time?

A In June 1942?

Q Yes.

A No.

Q So you expected that Germany would if not win 100 per cent, would have a very good outcome of the war, didn't you do that?

A Yes.

Q Isn't it a matter of fact then that this presumption was dropped only because you had nothing to fear any more, -- that Germany was going to win the War, -- whether the victims knew or did not know whether they were sterilized or not?

A That had nothing to do with it.

Q Why was it then done? Why was it changed then, the whole idea?

A This fact was included in the first letter, so that Himmler should not carry out his sterilization plans, and so I assume that in this second letter the sentence was included so that Himmler's doubts which had arisen from the first letter would be done away with.

Q All right, but in the first letter you made the direct suggestion how it could be avoided, that the people should know they were sterilized; in the second letter you say it doesn't make any difference any more; I do not know, but it seems to me you did not answer my question?

A. I did answer it.

Q. Is this the only explanation you can give for this?

A. I cannot give any other explanation.

Q. All right, you named here six euthanasia stations, as far as I can remember?

A. Yes.

Q. Will you tell the Tribunal where these euthanasia stations were located in Germany?

A. I told the Tribunal that.

Q. Will you repeat that please, as far as you can?

A. Grafeneck was in Wuerttemberg; Hadamar was in Hessen; Sonnenstein was in Saxony; Hartheim was in Austria; Brandenburg near Brandenburg, and Bernburg in Dessau or in Anhole near Dessau.

Q. Can you tell me what concentration camps were in the vicinity of these different euthanasia stations?

A. No, I cannot.

Q. Do you know, for instance, how far or whether it is true or not that Mauthausen was in the vicinity of Hartheim?

A. No, Mauthausen is near Linz.

Q. And where is Hartheim?

A. Yes, Hartheim is also near Linz.

Q. You know that Hartheim is not far from Mauthausen?

A. I assume so. I was never at Mauthausen, I don't know exactly where it was. If they say Mauthausen is near Linz, I know that Hartheim is not far away from Linz and then Mauthausen is not far from Linz.

Q. What do you know about the location of the Gross-Rosen concentration camp?

A. The Gross-Rosen camp is in Silesia; I have learned that now.

Q. How far is that from Bernburg?

A. I really don't know - two hundred, three hundred, or four hundred kilometers.

Q. What about the location of Buchenwald?

A. I don't know.

Q. In connection with the location of Bernburg?

A. I don't know where it is.

Q. I have no further questions, Your Honor.

BY THE PRESIDENT:

Q. Witness, in your testimony with reference to the euthanasia operations as applied to defective children you testified concerning the consent of the parents. Now, was that consent given to the administration of euthanasia to their child or did the doctors in the institution where the child was inform the parents that something might be done for the child to help the child, which might be dangerous? Just what was the information conveyed to the parents by the doctors in charge of the child?

A. I should like to point out again that on this question I know only as a layman through Linden to the best of my recollection the doctor who sent the child to the institution - that is, not the doctor at the Reich Committee Station but the doctor who noted the deformity - spoke to the parents and told them that if the child was sent to a Reich Committee station it would be healed if there was any possibility of it, but he also pointed out that the treatment in such severe cases is always connected with extraordinary danger and then he asked the parents whether, in spite of this unusual danger, which in many cases led to the death of the child, whether they would make the decision and give their consent. Only if the parents did give their consent for the risky treatments by which only a small percentage of the patients were cured, then this doctor sent the child to a Reich Committee station.

Q. And then the child was sent to the station for the administration of euthanasia, is that correct?

A. No, the head of the Reich Committee station first of all had to try every possibility beyond normal care to make this child capable

of real living. As far as I, as a layman, can judge, there were very serious operations which might be fatal.

Q. Well then, the fact that the child was placed in the institution would not the doctors immediately endeavor to restore the child to something like a normal state as soon as possible?

A. I am sorry, I did not understand your question, Your Honor. What do you mean, a normal way of life; you mean to attempt this cure immediately?

Q. When a defective child was sent to a governmental institution for care, would not the doctors there immediately examine the child and, if they felt that any treatment or any operation would really benefit the child, would they not proceed with that treatment immediately, probably after advising the parents, but they would not delay in order with an endeavor to help the child to as nearly a normal state as possible, would they?

A. I cannot judge as a layman how long a period of observation would be necessary and how a child might first have to be nursed and brought into good condition before an operation could be performed. I cannot judge these things, but certainly in my opinion the doctors made every effort, as far as human aid was possible, to make the cure permanent.

Q. Was euthanasia administered to these children if there was any possibility of rehabilitating the child so that the child could lead a fairly normal life?

A. No, not in that case.

Q. Have you any idea as to the number of children to whom the euthanasia operation was applied in these mental institutions?

A. In my first interrogations I believe I gave a figure. I don't remember what it was. I can only say with a good conscience that I cannot give any figures because in 1942 I went to the service and I don't know what happened from 1942 to 1944 in the way of authorizations issued by Bouhler. Up to the time when I was still in Berlin with

Bouhler, and sometimes I gave Bouhler the documents to be signed, the number was very low. I pointed out that Bouhler, although he was not a doctor, in many cases decided against the opinion of the experts and did not give the authorization in spite of this opinion and the child had to be observed for one, two, three, or more years before authorization for euthanasia could be given.

Q. Have you any idea that the doctors in charge of an institution where defective children were confined ever asked the parents if they desired that euthanasia be administered either by an operation or by administering euthanasia to that child?

A. I don't know but I don't believe that these doctors asked the parents. That was up to the doctor who assigned the child to the institution. As Linden said he had to discuss the matter with the parents as tactfully as possible so as, on the one hand, not to leave them the responsibility as a spiritual burden, but on the other hand he had to make it clear to them that it might be possible to release these children from their suffering.

Q. Did they advise the parents that the child were ill?

A. In what form it was put I don't know.

Q. Did you hear Dr. Pfannmueller's testimony?

A. Pfannmueller said that he did not talk to the parents about it. That is what I recall.

Q. As I remember his testimony he stated that after the commencement of the administration of this drug, which would cause the death of a child after a certain number of days, he would advise the parents that the child was ill, and that they should come to see the child so that they would see the child before it died? Do you remember that testimony?

A. Yes. I do.

Q. Now that is no wise the equivalent of informing the parents that a dangerous operation might result in helping the child or it might result in the death of the child. That is a very different thing, is it not?

A. Yes, I said that I didn't believe that the executing doctor talked to the parents. It was the doctor who sent the child to the institution. To be more explicit it was the doctor who had this child sent to a Reich Committee station, not the doctor in charge of euthanasia.

Q. Dr. Pfannmueller was in charge of the euthanasia and in charge of the institution, was he not?

A Yes.

Q He did not send the children to the institution?

A No, and he said that, that the children were sent to him. That he himself did not send any one to the institution.

Q Well, the doctor who sent the children to the institution would have nothing to do with the operation of euthanasia, would they?

A No, they had nothing to do with it.

THE PRESIDENT: Has the counsel for the defendant Brack any further questions to the witness?

Do I understand counsel for the defendant Brack has no further questions to propound to the witness?

DR. FROESCHMANN: Mr. President I should like to examine my client but the defense counsel for Dr. Pokorny wishes -

THE PRESIDENT: Counsel for defendant Brack will proceed with the examination of the witness first.

BY DR. FROESCHMANN:

I should just like to get my document. Mr. President, I have only a very few questions to put to the witness Brack based on the cross examination which has just been concluded.

Q Witness, the Tribunal has asked you whether you were ever present at euthanasia of incurably insane in mental institutions, and you said "yes." When you were present on such occasions of euthanasia on insane, did you take any active part in the killing of these insane persons, even by only manipulating some lever or any other kind of machinery?

A No, I did not participate. That was up to the doctor.

Q Witness, from the questions of the Tribunal, I believe to have gathered that the Tribunal has a certain assumption that the gas chambers in which euthanasia was performed on

incurably insane persons could be taken apart and moved to other places. In answer to the question of the Tribunal, you tried to make it clear that these "gas chambers" - perhaps the term was not very fortunate - were solid parts of the building of the euthanasia institution, is that true?

A Yes, that is correct, it was a room which was from the very beginning an organic part of such a building.

Q Then if these gas chambers should have been dismantled, then is it true that nothing would have been left but a heap of ruins as is made of a building after an air raid?

A As far as I can judge it would have been actually technically impossible. One would have had to remove a piece from a house. That isn't possible.

Q Then it was not the case that these parts of the building could have been loaded on a truck and removed in one piece?

A No, that would have been quite impossible.

Q But you, witness, pointed out that the pipes consisted of the same sort of pipes that can be bought anywhere in the world for very little money?

A It was a pipe such as is used for water or gas anywhere. In every room you can find such pipes.

Q The Judge also asked you in regard to the questionnaires about the nationality of the people who were subjected to euthanasia in your presence. I believe it was in Brandenburg, if I understood you correctly, this occurred in 1940, is that true?

A Yes, I don't know exactly. I said either the end of 1939, or the beginning of 1940.

Q At that time at the end of 1940, could you have had the idea that of the poor men who are now subjected to euthanasia that these poor men could be foreigners?

A No, the idea could never have occurred to me and it would not have been possible to find out such a thing. The poor beings there, one could not talk to them at all.

Q The Judge also asked you a few questions about the Jews, specifically he asked you how many Jews there were in 1939 in Germany. If my impression was correct, you thought over the answer and then gave a figure finally of two to three million, is that true, that you gave that figure?

A Yes, I believe so. I don't know. It was just an estimate.

Q You are anticipating. I merely wanted to know whether you said two to three million?

A Yes.

Q Now, what evidence do you have for giving this number, two or three million Jews?

A I have no evidence for it.

Q Then it was simply an estimate?

A Yes, just an assumption on my part.

Q Your Honors, in this connection, I should like to explain something. I have had my colleague ascertain in the meantime on the basis of the Statistical Year Book for the German Reich, I believe, of the year 1940, that the number of Jews in Germany, in the old Reich, was 375,000, and in the entire Great or German Reich, that is including Austria, and the territories incorporated up to 1939, was about 700,000. I have also learned that there were at most about 200,000 part-Jews. Witness, do you know of any data from the Statistical Year Book which were far below your estimate?

A At that time I know of no statistics.

Q Then you very carelessly gave the figure for which you had no official evidence, is that correct?

A Yes, that is true, but I will state I need evidence and I don't have any.

Q Then you should say: "I don't know." In any case, according to the evidence which I have obtained in the meantime there were at the most one million Jews and part-Jews.

DR. HOCHWALD: If the Tribunal please, the Prosecution objects against this kind of questioning. Defense counsel has not produced a document showing that the assumption of the witness was wrong, the numbers given by the defense counsel may be correct. I am not able to check it.

THE PRESIDENT: The Tribunal understands that. Counsel has simply offered those figures and if the Prosecution upon investigation believes those figures to be incorrect, it may introduce evidence if it desires to the contrary, and if it agrees that those figures are approximately correct, it may so state later on. The figures given by defense counsel are in no wise binding upon anybody at this time.

DR. HOCHWALD: Thank you, Your Honor.

BY DR. FROESCHMANN:

Q. The next question. The Judge also asked you whether and to what extent veterans of the World War 1914-1918 were included in euthanasia or were to be included. Do you recall this question?

A. Yes.

Q. The Judge pointed out that insanity is said to be connected with a brain injury. As you have repeatedly said, you are not a doctor. I merely want to have you clarify one point. That is, what veterans of World War 1914-1918 were to be exempted from euthanasia. I would like a very clear, precise answer.

A. These were to be exempted in whose cases the insanity was the result of any injury incurred during the World War, regardless of whether it was a brain injury or any other type of injury.

Q. That is what I wanted to know.

The Court also asked you whether there was a central office in the Party or in the Reich for equipping the gas chambers; on whose instructions these gas chambers were set up in the various euthanasia institutions. I ask you, and please answer this question with "yes" or "no", was there such a central office in the Reich? Do you know that it organized the gas chambers according to a certain plan, a certain scheme.

A. No, there was no such office.

Q. You were also asked how could the head of an euthanasia institution hit upon the idea of installing a gas chamber in his institution for the purpose of euthanasia. I ask you, do you know when the idea of the use of gas came up in the deliberations of the doctors, the experts?

A. I really don't remember that.

Q. Do you remember that originally the idea was that these incurably insane persons were to be given an injection of morphine or something similar?

A. I informed them. At first it was said that the patients were to be given some drug, whether it was an injection or pills I don't

know, but I don't remember when and who made the suggestion to Buhler that that would be impossible or that gas should be used for other reasons. That was a purely medical matter.

Q. Another question in this connection. Do you know or do you merely assume that Buhler as the man alone responsible for euthanasia gave instructions to the heads of the mental institutions to build such gas chambers, to have them built by their local mechanics?

A. Buhler did not give such instructions. Buhler did not take any direct interest in what went on in the institution. The institutions were under the Ministry of Interior. The Ministry of Interior gave necessary instructions as to what had to be done. That was in 1937.

Q. That was not quite clear from your testimony before. Is it clear now that you said that already you were of the opinion that it was the Ministry of the Interior which gave instructions to heads of mental institutes about technical matters concerning the incurably insane? Now, I should like to interpolate one brief question.

When did you visit a concentration camp?

A. Once in my life I saw a concentration camp. That was in 1937-1938. That was camp Oranienburg. That was the only time.

Q. Then in answer to the question of the President you stated that in the various discussions and preliminaries before euthanasia was introduced you were told that the reason and the motive for euthanasia, or rather you felt that the reason and motive for euthanasia was always sympathy with the patient and the idea of releasing them from their suffering, that you never had any other reason, for example expediency, is that true?

A. Yes, that is true.

Q. And the question was also brought up during your examination whether Hitler in your opinion could decide about the life of the insane without the consent of the relatives. Is it true and do you know from what went on at that time, that the consent of relatives of the insane was not considered desirable so that any personal intentions of the relatives against sick persons could be eliminated -- any intentions

of obtaining the property of relatives by bringing about the relative's early death?

A. I thought I had already said that that was the same reason why a doctor in the institution could not pass judgment on the questionnaires of his own patients, in order to eliminate any possibility of intentions to obtain the property of the insane person.

Q. And another subject brought up by the President. Is it true that in euthanasia of incurably insane after the questionnaire had been filled out and judged by experts and top experts, the Reich Minister of Interior, Linden's office, assigned the incurably insane persons to observation institutions and later to euthanasia institutions?

A. Yes, that is true.

Q. Is it true that in the proceedings before the Reich Committee which is emphasizing the expert, the final expert who passed on the questionnaires assigned the patient through Linden to the Reich Committee Station?

A. I do not know to what extent the doctor giving the treatment and the doctor assigning the patient to the institution was the final expert, for I do not know Linden's system and procedure in the Reich Committee.

Q. But is it true that on general principle no such child could be assigned to the Reich Committee station without the parents having previously being explicitly asked whether they consented to this assignment even with the danger that upon application of modern therapy the child might die?

A. Yes, that is what happened and that is what I explained to the Tribunal.

Q. In this connection, Mr. President, I should like to refer once more to my exhibit Brack 41. It contains the sentence: Since on principle I do not assign children to the Reich Committee Station against the consent of the parents, I should like to consider the case of the Franz child settled." Witness, again in answer to the question of the Tribunal as to why Jews were to be exempted from euthanasia you

stated that euthanasia was considered a benefit which should not be given to Jews. Was that your personal opinion or was that the distorted opinion of Hitler?

A. That is what I can say about it now. I can only draw the conclusion now looking back; to what extent those conclusions belong to the fact I don't know that might have been purely political.

Q. Witness, you have not answered my question yet, whether this opinion you have expressed here was your personal opinion or whether you were opposed to this opinion?

A. No, that was not my personal opinion. These are my conclusions.

Now, I come to the cross examination of the Prosecutor himself. I can be very brief.

MR. HARDY: May it please Your Honor, inasmuch as defense counsel is going to a new subject I have something to take up with the Tribunal. If you will permit me to do it at this time when it will be most convenient. Several months ago the Prosecution was concerned with locating Dr. Eugen Hagen - that is, the same Dr. Hagen who worked at Strasbourg and Natzweiler. During the course of several months, Dr. Hagen was located and the Prosecution then did not take forward steps to have him brought directly to Nurnberg. In the meantime, the defense counsel requested Hagen as a witness. Hagen has arrived here now in Nurnberg and is classified as a "prosecution witness." Due to the oversight of the prosecution to call him as their witness, and inasmuch as defense counsel did call him as a witness, the prosecution now relinquishes their right to call Hagen and will give the defense counsel the opportunity to interrogate him first. At the completion of the interrogation by the defense counsel, if they do not see fit to call him here before the Tribunal as a witness, then we should like to have the opportunity to examine him. Due to the fact that this change of category has arisen, defense counsel is in a position wherein they must petition the Secretary General which must be done a reasonable time before this particular interrogation. Dr. Tipp, the defense counsel for Becker-Freyseng, is not in a position to do this at this time because his case with Becker-Freyseng will begin either late today or tomorrow, and he would like to interrogate Dr. Hagen this evening; so if the Secretary General can make a note to change the classification of Hagen from a "prosecution" to a "defense" witness, then I understand Dr. Tipp

can carry out his intentions without any interference.

THE PRESIDENT: May I hear from defense counsel.

DR. TIPP (Defense Counsel for the defendant Becker-Freysong): I will be grateful, Mr. President, if the Tribunal should take notice of this decision of the prosecution and should ask the General Secretary to make this decision today, and, if possible, during the noon recess and to inform Room 57 so that I can speak to Mr. Hagen tonight already. That is the only formality which still has to be settled.

THE PRESIDENT: In view of the statements by the prosecution and counsel for the defendant Becker-Freysong, it is satisfactory to the Tribunal to have the counsel for Becker-Freysong interview the witness at noon and put him on the stand tomorrow or this evening, if possible.

MR. HADY: As I understand it,, Your Honor, it isn't the purpose of defense counsel to call Hagen here as a witness now. He just wants a pre-trial interrogation.

THE PRESIDENT: That may be permitted. Defense counsel may interview the witness this noon or this evening and call him as a witness if he desires.

MR. HADY: In order to expedite matters, if the Tribunal would request Mr. Travis, the Secretary General of this Court to clarify this discrepancy in the Secretary General's Office, then Dr. Tipp can make his arrangement without too much trouble.

THE PRESIDENT: The clerk of the court will inform the Secretary General. I would suggest that counsel for the prosecution and for the defendant accompany the clerk of the court to the office of the Secretary General so that the entire matter will be clarified at one time, and everybody be advised.

DR. TIPP: Thank you.

Dr. FROESCHMANN: May I continue?

THE PRESIDENT: Counsel may proceed.

BY Dr. FROESCHMANN:

Q Witness, in cross examination, a number of documents were shown to you and I have a very few final questions about these documents. Is it true that in Document NO-2799, Exhibit 497, it mentions the "Aktion Heyde" in the Fall of 1941 and that you knew nothing about it until the moment this document was submitted?

A I know nothing about "Aktion Heyde".

Q Is it true that you did not know anything about the "Aktion Lange" either which is in Exhibit 500, of the Prosecution, Document NO-2909, until this document was submitted here?

A No, I know nothing about it.

Q Mr. President, from the moment I took this case I have tried to clarify as objectively as possible all matters which accused or excused the defendant Brack. In the last few days, since this document has been submitted, I have been trying to trace this "Aktion Lange" through witnesses, because I am still looking for that one person who is responsible for Aktion 14-F-13. I ask for permission that until my colleagues have concluded their cases I may continue to submit evidence, perhaps affidavits, to clarify that "Aktion", because I am interested in having even the slightest suspicion of the defendant Brack, on the basis of these documents, refuted.

THE PRESIDENT: The Tribunal grants the permission requested by counsel.

Dr. HOCHMILD: May it please Your Honor, if Dr. Froeschmann should desire to present affidavits as to the question of "Aktion 14-F-13" in evidence it should be in a time when

the prosecution is still in the position to call the witness for cross-examination.

THE PRESIDENT: That is certainly true. Those matters will have to be arranged in accordance with the circumstances depending upon each individual case, but an opportunity will be accorded the prosecution and accorded the defense to call witnesses up to the time that the evidence is closed under circumstances which are fair to both sides.

DR. HOCHMALL: The only thing I wanted to point out is if twenty-four hours before the closing of the case, an affidavit is submitted by either the prosecution or the defense, the opposite party is not in a position to call the witness for cross examination if the witness can not be produced before the Tribunal in such a short time.

THE PRESIDENT: Yes, that is true and there would have to be a deadline fixed beyond which such affidavits or witnesses could not be offered, of course.

DR. HOCHMALL: Thank you.

DR. FROESCHMANN: Mr. President, I shall certainly act in accord with the prosecution on that procedure since I am only grateful to them for the documents which they have submitted today.

BY DR. FROESCHMANN:

Witness, I don't know whether you noticed a little word this morning which the prosecutor used in asking one question. He asked you about your letter on sterilization plans. He asked you whether you wanted "to avoid still more ruthless measures." The word is "Still". Do you understand me? You said in your interrogation that with your suggestion you wanted to prevent the brutal measures of a Himmler and at least delay them. You answered this question to the prosecutor in the affirmative, and with this answer you would admit that your suggestion could already be considered a ruthless measure.

measure while, according to you, it was something entirely different, that is, to bring Himmler from his intention to use ruthless methods. I ask you, do you intend to admit that with your suggestions you wanted "to prevent ruthless measures but not still more ruthless measures?"

A I should like to formulate that very concretely again. I wanted, as far as possible, to prevent or at least redirect all measures. I can't say it any other way.

Q Is it also true as your answer to the question of the prosecutor just indicated, if I understood it correctly, that you were convinced of the complete inefficiency of your sterilization suggestion?

A I believe I explained clearly that I was convinced that the suggestions could not be carried out in practice.

Q The prosecutor also asked you, referring to the effect that you suggested the sterilization of two to three million Jews, what was to be done with the other seven million Jews. For you, in your official capacity, was there any obligation to try to frustrate Hitler's or Himmler's plan to exterminate the Jews? Yes or no?

A No, there was no obligation.

Q The prosecution finally submitted documents to you bringing you in connection with Eichmann and a Dr. Kallmeyer and drafts by a Dr. Wetzel. Did I understand you correctly that the name Eichmann was completely unknown to you at that time and that until these documents were submitted this morning you knew nothing about the talks which Dr. Wetzel or some one else is supposed to have had with Oberdienstleiter Brack in 1941?

A Until these documents were submitted I had no knowledge of it. I can not even remember the name of Dr. Wetzel or Letzler.

Q Mr. Brack, is it true that in the course of our many

conversations I myself mentioned the name Eichmann, to find out if this Eichmann had any plans for the extermination of the Jews, and is it true that I made an application to call this Eichmann as a witness on your behalf; that this application was approved, and that it was only discovered later that Eichmann was dead?

A Yes, that is true.

Q My final question. At the end the prosecution asked you whether the sentence in the second letter of the 23rd of June 1942 "it makes no difference whether these Jews become aware of sterilization" or something like that is connected with your first letter? You said "yes". Is that true?

A Yes.

Q If I am not mistaken, during your direct examination, you said that you made this remark in the second letter because at that time in 1942 the Jews already suspected their fate and no indications that sterilization was intended would have been necessary. Do you understand my question?

A As far as I remember, I said during my direct examination that the Jews had an idea of their fate.

Q. And my very final question, the Prosecutor this morning spoke of Document NO 426, perhaps I may formulate all of the statements in this no question. Is it correct in the formulation of this affidavit there was a fight about it, how it would be worded?

A. Yes. As far as in my condition at the time I was able to understand things or grasp things, there was a fight; but there were many things I really didn't understand, and didn't fight about them.

Q. Witness, finally I should like to ask you the most fundamental question resulting from the cross-examination; were you convinced of the legality of Hitler's Decree of 1st September 1939?

A. I was firmly convinced of the legality of that decree.

Q. Were you aware that in collaborating with the euthanasia program you were committing a penal offense?

A. No, I was not aware I was participating in a penal offense.

Q. Did you act in full cognizance of the legality of what you were doing?

A. Yes.

DR. FROESCHMANN: Mr. President, I have no further questions to this witness.

BY THE PRESIDENT:

Q. Witness, please describe a euthanasia station, of what buildings did it consist?

A. A euthanasia station was a mental institution, for example the institution at Sonnenstein. The institution at Sonnenstein consisted of several buildings in a large piece of grounds. In these buildings were the necessary rooms for the personnel, for therapy, etc. For euthanasia specifically one of these buildings was used. It remained as it was, except that one of these rooms was arranged as a euthanasia room. I can't describe it in any other way. The euthanasia institutions were not built, and they were institutions already in existence which were used as euthanasia institutions.

Q. Were they already occupied by other sick or insane persons?

A. No. The patients were transferred there on instructions from the Ministry of the Interior.

Q. What had the buildings been used for before that?

A. That differed. One of them at Graffenack, I believe was a home for cripples of the Samaritan Foundation, and the inmates were transferred and the institution was made available for euthanasia. In this connection a Wurttemberg institution was turned over from the Wurttemberg Ministry of the Interior to the Reich Ministry of the Interior.

Q. How many of the persons to be subjected to euthanasia would be in such a station at one time?

A. I can't say. There was, of course, room for a great many, but how many were there at the same time I don't know.

Q. How long after a shipment of persons arrived at a euthanasia station would they be subjected to the euthanasia?

A. I can only say from what the doctor at the euthanasia institution told me. I said before that I was at these euthanasia institutions several times. I saw patients who had been there only a short time for observation by the euthanasia doctor, and also patients where the euthanasia doctor told me that he was still in doubt as to whether he would subject them to euthanasia, or whether he would send them back to the observation institution, or their original institution. That depended on how long the euthanasia doctor needed to observe the individual patient in order to form his own conclusion, because it was he who had the final responsibility.

Q. Would there be as many as 100 of these persons in the group of buildings at one time?

A. There were certainly buildings which would house a hundred, I believe so. I would say a hundred, yes.

Q. Was the gas chamber a separate building or just a room in one of the other buildings?

A. That was only one room in the building.

Q. But it was a room in the building and not a separate construction?

A. No, no, there was not a separate building.

Q. Where was the crematory located?

A. That varied too. In Grafeneck, I believe the crematorium was at some distance from the institution, in another building, while at Sonnenstein it was in the main building. It varied: I have no very clear recollection of that. In Sonnenstein I am pretty sure it was in the main building.

Q. And these persons were to be subjected to euthanasia, after remaining several days in the building and they were put in the gas chamber, would just think they were going to be given a shower bath?

A. I don't believe they had any idea where they were going at all.

Q. Do you mean because they were insane or incapable of having an idea or simply if they had some degree of intelligence they didn't know what was going to happen?

A. Yes, I meant the former.

Q. Do you know anything about the station at Hadamar?

A. I have already said Hadamar is the only station of which I know nothing, because it was the last one which was built. That was when I was no longer much concerned with these things. I think that Hadamar was made a euthanasia institution in 1941.

THE PRESIDENT: Has counsel any further questions?

DR. FORESHMANN: No, Mr. President.

THE PRESIDENT: It is now time for our noon recess.

The Tribunal will be in recess until 1:30.

(Thereupon the noon recess was taken.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 19 May 1947.)

THE MARSHAL: The Tribunal is again in session.

VIKTOR BRACK - Resumed

MR. HARDY: May it please your Honor, defense counsel have called to my attention that they are desirous of having another meeting concerning the submitting of briefs to the Tribunal. Whenever it is convenient for the Tribunal, the prosecution is willing to meet with the defense counsel and the Tribunal.

THE PRESIDENT: The Tribunal will be glad to meet with the committee from defense counsel tomorrow afternoon after the recess of the court at 3:30; also with the prosecution.

EXAMINATION BY THE COURT (Continued)

BY THE PRESIDENT:

Q. Witness, I have one more question. We understand that you have testified that you were not familiar with the station Hadamar, but do you know whether or not that euthanasia station was, generally speaking, constructed and operated along the same lines as the other stations?

A. I would assume that. However, I cannot say that with certainty, because I never actually saw Hadamar.

THE PRESIDENT: Has any defense counsel any questions to propound to the witness?

REDIRECT EXAMINATION (Continued)

DR. HOFFMANN (Counsel for the Defendant Pokorny): Mr. President, I only have a few questions to put to the witness which arose from the cross examination.

B. DR. HOFFMANN:

Q. Witness, when asked by the prosecution, you said that you were not a physician nor a psychiatrist.

A. Yes.

Q. But didn't you have what is generally designated as "medical interest"?

A. No, I wouldn't call it "medical interest". I would perhaps call it some understanding, because I was brought up in a physician's home.

Q. Witness, didn't you know that an attempt was made to remove cancer by X-rays?

A. No, I only knew that radium rays were used in connection with cancer.

Q. Witness, were you ever X-rayed by the army or anywhere else?

A. Yes, I was X-rayed on various occasions.

Q. Didn't you notice, witness, that certain precautionary measures were taken during x-raying?

A. No, I didn't notice that, but it is possible.

Q. Witness, couldn't you imagine that X-rays could perhaps destroy tissues of the body?

A. I can imagine that, but I don't know in what connection or under what conditions that could be possible.

Q. Witness, didn't you have to consider that thought when suggesting this X-ray sterilization?

A. No, no such thoughts arose within me.

DR. FROESCHMANN (Counsel for the Defendant Brack): Mr. President, to my regret, I must object to this form of questioning. I think that this matter was exhausted by the direct and cross examination.

THE PRESIDENT: I will ask defense counsel for the Defendant Pokorny the purpose of these questions.

DR. HOFFMANN (Counsel for the Defendant Pokorny): Mr. President, I should like to go back to the original affidavit made by the Defendant Brack. There is a certain discrepancy between that affidavit and his present testimony. This discrepancy between these two statements is very important also for the defense of my client. For that reason I

wanted to ascertain whether the Defendant Brack actually could know nothing about the possibility of sterilization by X-rays.

THE PRESIDENT: Counsel may proceed as rapidly as possible. Counsel may proceed with the interrogation along that line but make it as expeditious as possible.

DR. HOFFMANN: Yes, your Honor.

BY DR. HOFFMANN:

Q. Witness, I shall once more come back to the question which I have put to you; on the basis of your medical knowledge which, after all, you had, wouldn't you have to have considered it probable that one actually could sterilize human beings by means of X-rays?

A. I should like to correct you. I had no medical knowledge. However, I could rely upon the information given to me by a physician whom I considered to be reliable and who himself had treated me with X-rays, he told me that damages to the genitals by X-rays are not possible and if they do come about they would pass away. This physician confirmed that in an affidavit.

Q. But that information was 15 years back, wasn't it?

A. Now it is 15 years ago, but at that time it was only seven or eight years. However, I am no X-ray researcher.

Q. Witness, didn't you discuss with the Defendant Pokorny, while you were here, the reason why he wrote his letter?

A. Yes, I did talk to Pokorny.

Q. Did he tell you for what reason he wrote the letter which has been submitted here as a document?

A. I believe he hinted at the reason.

DR. HOFFMANN: Thank you. I have no further questions.

THE PRESIDENT: Any other questions to be propounded to the witness by the defense counsel?

Since there are no further questions, the witness will be excused from the stand and resume his place.

(The witness was excused.)

THE PRESIDENT: Has counsel for the Defendant Brack any further evidence to introduce?

DR. FROESCHMANN(Counsel for the Defendat Brack): Mr. President, I forego the submission of the affidavit in my Document Book No. 1, Document 3, an affidavit by a certain Arnold Hennig, and the affidavit in my supplement No. 3, affidavit No. 47, on page 8, which is the affidavit by Kleffel, since the prosecution has given me no reason to read these two affidavits. I want to draw your attention to one affidavit, Mr. President, in connection with a matter which came up this morning. This is the Kallmeyer affidavit. I wanted to establish from this affidavit that this Kallmeyer at the end of 1940 -- that is Exhibit Brack 23, Kallmeyer affidavit --- I wanted to establish that this witness says "From the year 1936 to the end of 1940 I was employed as a clerk in the Fuehrers' Chancellery." As far as I know, this Kallmeyer was known to the Defendant Brack virtually only under her maiden name Reese. Unfortunately, I can find no indication of that in the affidavit however, and I should like to add that information. Therefore I shall submit a brief supplemental statement about that name.

I have now concluded the submission of evidence, Mr. President. I have tried to establish that the defendant Brack had humane motives in carrying out his sterilization experiments, and furthermore was not involved in the murder of 50-60,000 insane persons, but that it could only have been - and was - euthanasia. That is all I have to say and I should now like to conclude my case.

THE PRESIDENT: The affidavit which you omitted from Document Book 1 was Brack Document 3?

DR. FROESCHMANN: Yes, Brack Document 3, the affidavit of Arnold Hennig.

THE PRESIDENT: The defense counsel for defendant Brack having rested his case, the Tribunal now calls the case against the defendant Becker-Freysong.

DR. TIPP (Counsel for the defendant Becker-Freysong): Mr. President, Dr. Marx, the defense counsel for the defendant Becker-Freysong, is suffering from the after-effects of a war injury and will unfortunately be unable to appear in court for a few days. With the permission of the Tribunal I shall begin the examination of the defendant Dr. Becker-Freysong until Dr. Marx returns, which I think will be in a few days.

THE PRESIDENT: Well, Dr. Tipp, you are appearing at this time at the request of Dr. Marx?

DR. TIPP: Yes, Dr. Marx asked me to examine the witness on his behalf.

THE PRESIDENT: And with the consent of the defendant Becker-Freysong?

DR. TIPP: Yes.

THE PRESIDENT: Then counsel may proceed.

DR. TIPP: I should first of all like to call the defendant as a witness to the witness stand.

THE PRESIDENT: The defendant Becker-Freysong will take the witness stand as a witness in his own defense.

(HERMANN BECKER-FREYSING, a witness, took the stand and testified as follows.)

BY JUDGE SEBRING:

Q. You answer to the name of Hermann Becker-Freysing?

A. Yes.

Q. Hold up your hand and repeat after me the oath:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

JUDGE SEBRING: You may sit down.

DR. TIPP: Mr. President, I have one request to make to the interpreters before the beginning of this case. The word "Referent" will play a decisive role in the case of the defendant Becker-Freysing. I know this word can hardly be translated into English by using only one word. This also applies to the word "Referat", which is hardly translatable into the English language. For that reason I should like to suggest to the interpreters that whenever the word "Referent" or "Referat" appears they should always use the German term, which I assume is quite clear to the Tribunal. I believe this will serve the clarity of the case considerably.

THE PRESIDENT: I think that for the sake of the record those terms should be explained for the record according to the signification which counsel places upon them.

DR. TIPP: Certainly, Mr. President. I would suggest that the German words be used and then in parenthesis the English translation. I think that is the best solution.

THE PRESIDENT: Will you now ask the interpreters to give the English explanation of the words?

DR. TIPP: Gladly. Will the interpreter please explain how he thinks "Referent" and "Referat" should be translated?

THE INTERPRETER: Certainly, Your Honor. The word "Referent" is

the man who is assigned to a certain department in order to deal with any of the subjects that come up there. He is an expert assigned to deal with a special department.

A "Referat" is the entire department where these special subjects are dealt with.

THE PRESIDENT: Those explanations - are they satisfactory to counsel for the prosecution and for the defense?

DR. TIPP: Yes, Your Honor.

THE PRESIDENT: Very well, those explanations of the use of the word being now contained in the record, I don't think they need be repeated after the use of either one of those words because the explanation is contained in the record.

MR. HARDY: I might ask defense counsel, Your Honor, what other words he thinks might create a discrepancy. Is there some other definition which was used here which he thinks is erroneous, so we can clear that up now?

DR. TIPP: No, Mr. President. The difficulty, as I see it, is that various interpreters use different English expressions for that word and as a result there is no clarity in the record that the term "Referent" is meant.

THE PRESIDENT: Which term do you mean, counsel, "Referent" or "Referat"?

DR. TIPP: I am referring now to the expression "Referent". This has repeatedly been translated with different words, depending on which interpreter was speaking into the microphone. I should like to bring to your attention that at one time I had to object because that word was translated as "chief of the branch". In order to be quite explicit I should like to see that the same word is always used throughout the proceedings. I want to see to it that the English term does not change.

THE PRESIDENT: It appears that the word "consultant" in English generally corresponds with the word "Referent" as given by counsel.

DR. TIPP: I must object to that, Mr. President.

THE PRESIDENT: I was just making the suggestion. It is perfectly satisfactory to use the words "Referent" and "Referat" with the explanation which is already contained in the record, if that is satisfactory to counsel for the prosecution and the defense.

DR. TIPP: May I clarify that? "Consultant" in the record here is always the man who is advising, for instance, the advising physician. The position which Professor Rose had is a "consultant" but that is not a "Referent".

THE PRESIDENT: That is unimportant, counsel. The Tribunal will follow your suggestion, using the German words which have been explained to the Tribunal and for the record.

MR. HARDY: Your Honor, that of course does not prejudice the right of the prosecution to maintain that the Referent is the chief of a department, I presume.

THE PRESIDENT: If counsel for the prosecution contends that it is the proper translation of the word, the prosecution may offer expert opinions as to the meaning of the word "Referent" - the proper translation into English. The prosecution may have that right.

DR. TIPP: In that case, I may commence.

DIRECT EXAMINATION

BY DR. TIPP:

Q. Witness, your name is Hermann Josef Becker-Freyseng and you were born 18 July 1910 at Ludwigshafen on the Rhine, is that correct?

A. Yes, that is correct.

Q. Would you please briefly describe to the Tribunal your education and training up to the time you entered college?

A. I grew up in my parent's home. My father died in the year 1917 during the First World War as a captain in the Engineer Corps of the Reserve. We then moved to Heidelberg where I attended school. At Easter 1929 I graduated from secondary school (Humanistisches Gymnasium).

After that I started my medical studies. I studied at Heidelberg, Innsbruck, and Berlin. In Berlin in the year 1934 I passed my medical state examination.

Q. And now, witness, would you please just as briefly describe your professional activities which followed thereafter?

A. From January 1934 until July 1938 I was at first active as an intern and after that as an assistant at the Fourth Medical University Clinic of Berlin under Professor Helmut Dennig. During my clinical activity I made my doctor's thesis through experimental work. In August 1938 I became an assistant at the Aviation Medical Research Institute of the Reich Aviation Ministry in Berlin, which was under Professor Hubertus Strughold. I retained this civilian position until the capitulation. In 1944 the medical faculty of the University of Berlin granted me the decree of Doctor Med. Habil. on the basis of experimental work about so-called oxygen poisoning, and in the winter semester 1944-1945 I was appointed a lecturer on internal and aviation medicine.

Q. Now would you please describe to us your military career?

A. My basic military training I received in 1937 in the form of a so-called eight-weeks course. In the summer of 1940 I was drafted into the Luftwaffe as an Unterarzt. At first I was at an aviators examination station, working with a motorized low-pressure chamber platoon and in August 1941 I was ordered back to Berlin from the Southern Sector of the Russian front and was transferred to the Medical Inspectorate of the Luftwaffe. There I stayed until May 1944 as an assistant Referent. From then on I was a Referent in the Referat for Aviation Medicine. My position as Referent I retained until 8 May 1945.

Q. Did you yourself apply for this position in the Reich Aviation Ministry, witness, or do you know in what manner you were assigned to that position? I am asking you, not for what purpose but in what manner.

A. No, I don't know.

Q. At any rate, you yourself did not try to get the position?

A. No.

Q. What military rank did you reach with the Luftwaffe?

A. After the prescribed period of more than two years, after I had been an Assistenzarzt and an Oberarzt, I was promoted in the summer of 1943 to captain in the medical corps, Stabsarzt, and I retained that rank until the end of the war.

Q. Perhaps it would be interesting to hear something about your fate after the capitulation. Could you describe that to us briefly?

A. In May 1945 I got into American captivity in the Tyrol. Then I stayed in England for five weeks in an

American interrogation camp; on 15 September 1945 I was released from the prisoner of war camp Aibling. In October 1945 I was employed by the American Army Air Force as a co-worker at the Aero-Medical Center at Heidelberg. I was active there together with a number of other former aviation medical men. The German chief of the scientific department was my old chief, Professor Strughold. From there I was arrested on the 15 September, 1946.

Q. And now let us speak about your political activities. Witness, were you politically active as a student or otherwise?

A. In May 1933 I entered the NSDAP as a twenty two year old student. I held no office or rank within the party. In addition to that I was a member of the NSKK, the National Socialist motorized corps, in the medical service of which I achieved the rank of an Ober-trupp-fuehrer, which corresponds to that of a sergeant. As a paying member I belonged to the NSFK, the National Socialist Flying Corps.

Q. In addition to that were you a member of any other national socialist professional organization, as for instance the National Socialist Student League, the National Socialist Physicians League or the National Socialists Lecturers' League?

A. No, I belonged to none of these organizations.

Q. On the basis of the testimony of the expert who was called by the Prosecution, Professor Liebrandt, we heard something about the physicians' school at Altrehse. Can you tell us whether you at any time visited any such course?

A. No, I never visited a course at Altrehse, but in that connection I may mention that I was never compelled and I wouldn't have been compelled by the Reich Physicians' League to attend any such course. Only my local authority

in Berlin, the magistrate of the city of Berlin, asked me to attend such a course, but I never did that.

Q. You were telling us before that you wanted to become a lecturer, and it is known that lecturers would have to go through a political camp in order to get their political training. Did you participate in such a lecturers' course in a camp?

A. No, I went to no lecturers' camp, probably because there were no such camps during the war.

Q. That I think is sufficient as to your political activities. Now let us turn to your medical scientific activity. Under whose guidance did you receive your clinical specialized training?

A. I may repeat that briefly as an internal physician I was educated at the Robert Koch Hospital in Berlin under the charge of Professor Dr. Helmut Denning. That started in January 1935 and went on until July 1938. Denning had formerly been a first lieutenant in the medical corps and had been assisting the famous clinical physician, Rudolf Von Krehl at Heidelberg, and during which our training was often assisted by a laboratory at Boston.

Q. Witness, this activity is not the subject of the charge of the prosecution. You are sitting in the dock because you participated in aviation medicine. How did you come to be active within that sphere?

A. It was my intention to complete my education as an internal physician, by additional theoretical education. For that reason I looked for some possibility to work in a physiological institute. Through my chief physician I went to Professor Strughold who was the head of the medical institute at Berlin, in whose institute certain research work was carried out regarding the questions of breathing.

and circulation as they came up under special conditions of aviation. Since from the clinical point of view I was interested in the same problems, I asked to get a position to become an associate of that Institute. Professor Strughold was a student of the physiologist, Dr. Van Von Frey, and just as Denning had been active in the United States for some considerable period of time. In explanation of what Professor Liebrandt has stated here I should like to say that both of my teachers were in no way what Professor Liebrandt designated as the Nazi professors who allegedly since 1933 had been training all the medical generation which grew up after that period of time. Both of them had been university professors before 1933 and both of them are today again or rather still active in leading positions.

Q. You were telling us Dr. Becker that you went over to aviation medicine in the year 1938?

A. Yes.

Q. As on the basis of this trial it looks as if the entire aviation medicine was only designed to work for the German air force, it looks now as though this entire science from a practical point of view served for the preparation of the war. Would you please tell us something about that?

A Aviation Medicine as such was carried on in all countries where there was aviation and, in particular, during the last two decades. It developed and it naturally followed aviation technique and was always in accord with the tasks of the Air Forces. The endeavors of Aviation Medicine, however, were for the maintaining of the health of the flyer and for the research regarding the necessary conditions of life as they prevail during flying. You can in that case hardly speak of any science in that connection. I may point out that the most well known Aviation physician of Italy, Professor Margaria was a priest with a catholic order at Mailani. Even after 1945 the German aviation physicians were permitted to work at the Aero Medical Center at Heidelberg and carry on the same work in which they had been active before.

Q You know witness that the Prosecution in their oral statement has designated you as a man who in spite of his youth had already achieved some scientific success. It is, of course, natural that you had yourself been the author of a few scientific theses when you became a lecturer. Could you tell us briefly about your own scientific work?

A Well, during my clinical training, as well as during my aviation medical training, I worked scientifically. A number of publications contain the result of my work.

Q Mr. President, I think that the scientific work of the defendant is important for the judgment of his personality. We have endeavored to get hold of these scientific publications but it was not possible to do all that because of the aerial war which went on in Germany. However, we have compiled the titles of all his works which list I should like to submit as Becker-Freyseng document No. 1. This can be found on pages 1 to 4 of Becker-Freyseng Document Book I and I should like to offer this list as Exhibit No. 1. We are here only concerned with this up to the year 1942. The last work could not be included because unfortunately Dr. Becker-Freyseng has not all the material for that purpose. I have the original here and Prosecution

can look at it. I should not like to quote anything from that document.

In this connection, witness, we are not interested in your clinical work but aviation medical problems may be of some importance. With what particular aviation medical problems did you deal?

A During the years of 1938 and 1939 I dealt with time research experiments up to 9,000 meters altitude. That is to say, with consequences of a lack of oxygen which suddenly may occur. In the year 1939 to 1940 I dealt with the questions regarding adaptation to high altitude. In that connection the titles 24 and 25 in the list would be relevant. In the years 1938 to 1946 I concerned myself with questions of so-called oxygen poisons. In this connection the titles 15 to 21 in the list are relevant. In the years from 1945 to 1946 I concerned myself with explosive decompression sickness during altitudes of 20,000 meters.

Q You were giving us the years of 1945 and 1946. That was after the capitulation, was it not. Where did you carry on that work that you just mentioned?

A This is the same kind of work about which Dr. Ruff has already been speaking here which was carried out at the Aero Medical Center at Heidelberg.

Q It is natural that you carried out a number of tests within the framework of that work. May I now ask you how you were carrying out these tests?

A This entire work consisted of tests. A number of these tests were carried out on animals. We were using the ordinary laboratory animals; mice, rats, guinea pigs, rabbits, etc. In addition to these animal experiments I carried out experiments on human beings. This was done in the form of experiments on his own person or experiments on colleagues or associates, as for instance Dr. Hans-Georg Clamann, Professor Erich Opitz, and Dr. Ulrich Luft and in the year from 1945 to 1946 Dr. Ruff and Dr. Otto Gauer.

Q Mr. President I had originally intended to have the witness testify personally about this question of self-experiments. In order to expedite the proceedings I think it would be more advisable to limit myself to what I can show on hand of a number of affidavits which I shall offer as Becker-Freyseng documents. As the first document in this connection I should like to offer Becker-Freyseng Document No. 3 which is also contained in Document Volume I. This can be found on page 8. This is an affidavit of 10 January 1947 by Prof. dr. Strughold, who was for many years the chief of the defendant in his peace time position as well as in the position which he held after the War. I consider this point sufficiently important for me to cite a number of paragraphs. I start on page 1 "I, Hubertus Strughold, Dr. med. et phil. co-worker at the Aero Medical Center and Professor Physiology at the University of Heidelberg, herewith make the following statement on oath regarding Dr. med. habil. Hermann Becker-Freyseng:

"Dr. Hermann Becker-Freyseng worked for some years until 1941 in an established position as an assistant and scientific specialist at the Medical Research Institute for Aviation, Berlin, of which I was the head. I can therefore give information about Becker-Freyseng covering that period and also a later period when he was an assistant Referent and Referent in the Medical Inspectorate of the Luftwaffe and in his spare time occasionally continued with his scientific researches which he had taken up earlier."

The next paragraph under No. 1 deals with the scientific qualifications of the defendant. I only quote a few sentences from that paragraph:

"Becker-Freyseng is a very sound, prudent and critical scientist. The work he carried out ranks among the best in the sphere of German aviation medicine and is specially distinguished by its absolute reliability.

I shall skip the next sentences. I do not consider them important enough and I ask the Tribunal to take notice. Under paragraph No. 2 "Experiments carried out on himself" I quote: "Becker-Freyseng's

interest in scientific research went so far that he did not shrink from carrying out complicated experimentation his own person. Apart from at least 100 experiments carried out on his own person in order to test reactions to oxygen shortage which often lead to unconsciousness and which, more or less, constituted part of the routine of my collaborators, who were not forced to make these experiments and often even carried them out on their own initiative and against my advice, to of the experiments Becker-Freyseng made on himself are of special distinction:

"In 1938 he stayed for nearly three days in a chamber filled with almost pure oxygen. During this experiment in which also my first assistant, Dr. H.G. Glamann took part, some test animals were also present in the chamber, among them a rabbit. Although already on the second day Becker-Freyseng developed complaints, the two assistants could not be induced to drop the original plan to stay in the chamber for three days. Only a few hours before the end of the third day the experiment was interrupted from outside because meanwhile Becker-Freyseng was showing dangerous symptoms. Becker-Freyseng was brought into the clinic of Prof. Dennig, with severe symptoms, where he was examined by the Senior Physician there, Dr. Groscurth, a friend of Becker-Freyseng's who was later convicted and executed in 1943 for anti-National-Socialist activities. Only after 8 days Becker-Freyseng's condition improved somewhat. The symptoms were the same as observed on the test animals. The rabbit died, Becker-Freyseng recuperated. After a similar, shorter intermediate experiment carried out some months later another experiment, also lasting three days, with nearly pure oxygen at an altitude of 9,000 meters. Through these two experiments it was proved conclusively for the first time that at a certain pressure limit the breathing of pure oxygen for a sufficiently long time is fatal, but that no such danger exists at below this pressure. Since, that time, aviation science all over the whole world knows that oxygen is not dangerous for any length of time at an altitude

above 4,000 meters that, however, below that altitude pure oxygen may be breathed only in small, periodical doses. The same is true of oxygen treatment of the sick and of casualties. This is a heroic case of an experiment which will demand a place in the annals of science.

"It should be added that Becker-Freyseng received no material advantages from these experiments."

I shall skip the next paragraph on this page. The same way I shall skip the paragraph dealing with politics. Professor Strughold only says that Becker-Freyseng gave his support to those who were suppressed on political or racial grounds. May I only quote from page 4. "In conclusion I can say that Becker-Freyseng is a highly intelligent scientist, trained on sound principles, who even at an early age has done outstanding work for the progress of humanity through his scientific research and especially through his heroic experiments on his own person, and who in future will play his part as a careful scientist and a willing doctor."

There follows the signature and the certification by an American officer at Heidelberg. I offer this document as Becker-Freyseng Exhibit No. 2.

As the next document I should like to offer Becker-Freysong Document #2 which will be Becker-Freysong Exhibit #3. This is an affidavit by Professor med. Dr. Donnig, dated the 21st of December, 1946. Dr. Donnig is the chief of whom Dr. Becker-Freysong already spoke on the witness stand. I should like to quote a few passages from that document. At first, there is the personal data concerning the witness and then he writes, and I quote:

"From 1934 till 1944 I was chief of the department for internal diseases and of the fourth medical university clinic at the Robert Koch Hospital, Berlin. Dr. Becker-Freysong worked there from about 1934 to 1938, first as an intern assistant and later on as an assistant at my clinic. Thus I had to work daily with Dr. Becker-Freysong and became well acquainted with his human and medical character."

The next few sentences deal with the human qualifications of the witness of which I should like the Tribunal to take notice, and I shall go on reading the next few sentences:

"There was never any question of using patients for medical experiments, but Dr. Becker-Freysong always carried these out on himself or on students who volunteered for that purpose. Later, when Dr. Becker-Freysong was no longer at my clinic, he still carried out experiments on himself. Once he was admitted to my clinic in a serious condition, occasioned by an experiment on his own person. This is the same experiment which Dr. Stronghold already described in detail."

Then follows the signature and certification.

As the next document we have Document Becker-Freysong #4 which I shall offer as Exhibit #4. I know that Mr. Hardy is going to raise an objection immediately. I also know, however, that the Tribunal has already admitted such

original certificates as this as have been submitted here. This is an original letter by the Aero Medical Center, Heidelberg, on its original writing paper and I do not think that its authenticity can be contested. It is not my intention to quote it.

MR. HARDY: Your Honor, I could myself certify to the signature of the officer inasmuch as I am familiar with it. However, this here breaches all the rules and regulations of the Tribunal. I have, from time to time, objected to documents of this nature and the Tribunal has sustained the objection. I can't see the value of this one. It has no probative value that I can see. Colonel Benford expresses in this document that he does not wish to execute an affidavit or statement relative to the character or personality of the witness simply because he does not know him well enough. I can't see the value to this at all. If it had any probative value I would not object to it at all but I feel that the prosecution must object to the admission of this document.

DR. TIPP: If I may answer that point briefly, Mr. President. I am only submitting this document as it proves that Dr. Becker-Freysong was employed at the Aero Medical Center at Heidelberg from the 15th of October 1945 to the 16th of September 1946. This becomes evident clearly from the document the signature of which the counsel for prosecution just certified.

MR. HARDY: The prosecution will stipulate that the defendant did work at the University of Heidelberg in the Aero Medical Center. That is where the prosecution picked him up and brought him here. There is no question except that documents of this nature should not be admitted into evidence inasmuch as they do not comply with the rules set forth by the Tribunal.

JUDGE SEBRING: Mr. Hardy, will you agree also that he performed his work satisfactorily over there as Colonel Bedford states in his letter?

MR. HARDY: Certainly, Your Honor, but I object strenuously to the admission of affidavits or letters of this sort into evidence inasmuch as it doesn't carry the certificate or notary's signature or is not in the proper form here.

THE PRESIDENT: Counsel for the prosecution having stipulated certain facts - the only facts covered by the letter, it is the ruling of the Tribunal that the stipulation of counsel is ample to cover the facts.

DR. TIPP: I withdraw the document, Mr. President. What it tends to prove has already been proved by the statement of the prosecutor.

The next document which I offer is from Becker-Freysong Document Book 1, Document 5, which is on page 14 of the document book. I give it the Exhibit #4. It is an affidavit by Dr. Clamann who has been mentioned before. It is dated the 23rd of February 1947. Perhaps I may quote a few things by way of illustration. After the usual introductory formula the witness continues on page 1:

"Dr. Med. Becker-Freysong was employed by the Research Institute for Aviation Medicine in Berlin from 1938 until the end of 1941. I got to know him during this time as a man who had a high conception of the medical profession and of medical research. He always told me that in his view experiments on human beings were only to be carried out as self-experiments."

I go on to the next paragraph:

"He demonstrated this view in joint experiments with me on the effects of existing for several days in pure oxygen. These kind of experiments were urgently necessary in view of

the oxygen treatment in certain illnesses and the respiration of oxygen while flying. Since it was known that after prolonged breathing of pure oxygen animals contracted pneumonia, only self-experiments came into the question when the first experiments of this type were carried out on humans. On the third day of this self-experiment, Dr. Becker-Freyseng showed symptoms of cerebral irritation, such as headaches, nausea and dizziness, and pneumonia, and required nearly 8 days' clinical treatment. These experiments were published in the periodical 'Aviation Medicine.'

I shall skip the next paragraph and then I quote:

"In numerous other experiments with Dr. U. Luft and Dr. Opitz, Dr. Becker-Freyseng always placed himself completely at their disposal."

I can omit the rest. Follows the signature and the usual certificate of the notary.

The next document which I offer is also from Document Book 1, Becker-Freyseng Document #6, as Exhibit #5. This is an affidavit of Professor Dr. med. Opitz of Kiel of the 4th of January, 1947. Professor Opitz is a professor at the University of Kiel. Under #1 he tells how he met Dr. Becker-Freyseng; that he was in almost daily contact with him professionally from 1938 to 1942 and that he knew him very well, and I shall quote the last paragraph on the first page:

"With regard to science, Becker-Freyseng always maintained a completely ethical attitude towards the question of human experiments. During our collaboration, he acted as we all did, and tried out every seemingly dangerous experiment first on himself, before carrying it out on others. Never, during the time we worked together did he carry out experiments on fellow human beings unless they had voluntarily placed themselves at his disposal."

There follows a description by Dr. Clamann of the experiments on his own person which I can omit. Perhaps I may quote on page 2, the last few sentences of the first paragraph:

"In addition we carried out dozens of joint self-experiments in the low-pressure chamber, where the effects of high altitudes were studied up to the threshold of unconsciousness. Dr. Becker-Freysong took part in these experiments in the same manner as the other doctors of our working group."

The rest deals with an opinion of Dr. Becker-Freysong from the human point of which I shall not read but I should like the Court to take notice of it. Then follows the signature and the customary certificate.

The last document which I should like to submit in this connection is Becker-Freysong Document #7 on page 19 of Document Book 1 to which I give the Exhibit #6. It is an affidavit by lecturer Dr. Otto Gauer of Heidelberg, of the 24th of January, 1947. We had originally intended to call Dr. Gauer as a witness, but unfortunately, that is impossible because Dr. Gauer has already gone to America. Dr. Gauer first tells how he met Dr. Becker-Freysong; that he met him in 1937. He describes the self-experiments with Dr. Clamann which have already been explained and the harm which Dr. Becker-Freysong suffered from these experiments. I shall quote on the first page, the last paragraph:

"In spite of these unpleasant experiences, Becker-Freysong would surely have refused to carry out experiments concerned with his own scientific problems on people of whose willing or even voluntary cooperation he was not convinced."

Now, on the second page I shall quote on the first third of this page:

"Later I made investigations with him - that is, Becker-Freysong - and Ruff on the etiology of 'bends' at a height of 12,000 meters. These are very painful and can lead to dangerous complications. This is abundantly illustrated by the fact that during this investigation I sustained a knee injury, which forced me to have to walk on crutches for three months. In spite of this, Becker-Freysong and Ruff continued the experiments on themselves after my accident."

I shall not quote the rest. It describes how Becker-Freysong was appointed in the Medical Inspectorate. He says that Becker-Freysong complained because he didn't have time to perform his own experiments, and then he speaks of the defendant's political views. Follows signature and the customary certificate.

I believe, witness, your activity has been explained sufficiently by these documents so that we need discuss it no further. I should merely like to ask you, on the basis of your numerous self-experiments which were in part dangerous and your experiments on colleagues, did you have great experience with physiological experiments - in particular, experiments on human beings?

A Yes.

Q You know, witness, that experiments on human beings is, on the whole, the fundamental problem of this trial. A great deal has been said about the ethics and legal foundation for experiments on human beings. I should like to have your opinion on this type of experiments, particularly because you are one of the few witnesses who can testify from his own experience. Do you consider an experiment on human beings, as the prosecution expert Leibbrandt said, illegal or criminal under all conditions or what is your opinion?

A That I do not share Professor Leibbrandt's point of view can no doubt be seen from my numerous self-experiments which were not without danger, but I did experiments on other human beings considerably different than Professor Leibbrandt, because I believe that human experiments is both good and bad, like any other human action it can be permissible or criminal, depending on the special conditions under which it takes place. I consider the problem much more serious and much more complicated than Professor Leibbrandt described it here. For him and for Mr. Moll, whose book Professor Leibbrandt quoted here at length, experimental medicine is a subject of historic philosophical, psychological consideration. From such a point of view from his desk, it is very easy to judge experimental medicine and one of its most important tools, human experiments, and to condemn it, but at the same time to recognize the results of experimental research and to use these results as Professor Leibbrandt does, for example, as a practising psychiatrist, as he uses malaria treatment for paralysis which a few years ago was still in a stage of human experiments, but Professor Leibbrandt was kind enough to explain himself that life is a logical and he himself is no exception. The whole medical world has a different point of view than Professor Leibbrandt does. It is very easy to find dozens of examples of this. I have said that I consider the problem more serious and more complicated than it looks according to Professor Leibbrandt's description. It is serious because it affects the basis of medical action and medical responsibility. There is no doubt that the doctor is primarily obligated to help the patient who asks him for aid, and there is no doubt either that the doctor as a research workers has the obligation to work on the progress of medicine and to find new ways and means of treating the individual patient. That this field is very difficult is indicated by the fact that as far as I know no country in the World has a valid law setting forth the duties and rights of the doctor as a research worker.

According to German law a medical action, for example an operation is an assault which is not punished, simply because it is performed at the request of the patient or because it is not immoral or because there was no malicious intent, but German penal law, at least, can not find any positive judgment on medical action.

Professor Leibbrandt has quoted Dr. Moll's book "Medical Ethics" and has called it in a sense the medical code of ethics. I did not know this book before this trial. I never heard it quoted in a lecture or saw it quoted in any other book, although for eight of my 11 semesters were before 1933. But in the meantime I have studied Moll's book very thoroughly. Moll's writes expressly that everything which he writes about medical ethics refers only to the strictly limited duties of the doctor, as the doctor treats the patient. He states expressly that for other branches of the medical profession, for example the university professor, a medical professor, and the doctor as a research worker, there are other duties. Moreover how much Moll's medical ethics, which was published in 1902 is limited by its time is clear from one example. For Moll it is a serious problem whether, for example, a gynecological examination can be made by a male doctor, and Moll tries to avoid this difficulty by saying that such examination should be carried out only by female doctors. This is only an example of how in less than half a century the concepts of ethics change, especially if it is not a matter of ethics but of prudery.

If one has read Moll's book and if medical ethics is not a slogan, but a life task, one sees in this book only the enormous difficulties and one sees that Moll's books is no more a cheap patent solution for all medical questions than the Oath of Hippocrates, for example. I don't think that anyone in the World will reproach the American Physiologist Wendell Henderson, who is very well known and quoted very often in Germany, because from 1914 to 1918 he worked on the problem of poison bullets by order of his Government. Of course, the doctor and the research workers, beyond the narrow framework of his patients has an

obligation to the community in which he is placed by fate. As a witness who is certainly not suspected of Nazism, I may say the Swiss Psychiatrist Professor Bleuler, who in 1919 in his book "Artistic Thinking and Medicine," wrote "I should like to emphasize that a doctor is not the helper of one patient at the expense of the other living beings and human beings of the future, but is the helper of many. And for that reason he must let his results be influenced by the general social point of view just as well as from the individual point of view of a certain patient."

I read this book for the first time in 1935. I have quoted it repeatedly in my own work. For example No. 7 and 9 of the papers on this list which is Exhibit No. 1. What is said here by the doctor as a helper of the individual, and the community, is valid in my opinion, or the same way for the doctor as the research worker.

I consider that the very serious side of the problem which becomes complicated, because human experiments are carried out daily and everywhere in enormous numbers in all fields. It is performed on volunteers and non-volunteers, on healthy persons and on sick persons, on children, insane persons, prisoners, internees, rich and poor. So much has been said about it here that I don't want to "carry coals to New Castle." I shall therefore not cite any individual examples, but only want to say that not only for the layman, but also for the experts in looking over the literature on the subject is it extremely difficult, if not impossible to draw a clear line between experiment examinations, tests or simple observation.

Q Witness, you have told us your basic point of view briefly; do you consider all types of human experiments equal disregarding the question of the experimental subjects or of their basic differences?

A Of course there are great differences, and distinction must be made between a clinical experiment on one hand and a physiological experiment on the other hand. In the clinical experiments, the research worker must have sick persons if possible for his research work, or he must make persons sick in order to observe the origin, course and influence of the disease. For instance, Goldberger's pellagra subjects in Mississippi actually contracted pellagra, the same subjects of the Swiss scientist Bleuler, whom I mentioned before, were actually sick and were observed and given specialized treatment, while they were sick, so were Arnims famous experimental subjects. Klausen in Hawaii actually contracted true lepra. Smith and Fay in the United States and Eltorm in Denmark carried out their experiments, cold treatment with rectal temperatures up to 24 degrees celsius on cancer patients, and Dill and Forbes carried out the same treatment on the insane.

On the other hand there is the physiological experiment, which would include either simple examination of normal procedure for example the composition of the heart blood by means of introducing a catheter from a blood vessel into the heart experiments, as Korne and Hillner in New York and Michael in London performed, or the examination of the blood supply of the brain by Lennox and Gibbs by a puncture of the neck vein.

All of the physiological experiments are made to determine the limit of endurance. I should like to refer to the work of our own physiological experiments made under great heat, for example, cold or dust or a similar thing, medical questions about expeditions in the Polar regions or on the top of the highest mountains of the world. Such physiological experiments were carried out for example in the

form of fatigue and hunger tests on conscientious objectors in the United States.

In aviation medicine we were used to this sort of problem even during peace time, because altitude is one such problem of endurance. The decisive thing in all such physiological tests, to my mind, is that the person in charge of the experiment always controls, always is able to approach the extreme minute, step by step and can stop the experiment at all times. He merely need make the conditions normal again which had been made abnormal for the purpose of the experiments.

The sea-water experiment, which is one of the subjects of this trial, will later give me an occasion to go into this subject in greater detail. Here specifically I hope to be able to show that it was not the purpose of the experiments to penetrate beyond the limit of what is normal, but to test this limit. In conclusion, I should like to say that I hope I will not be misunderstood to mean that I consider only physiological experiments permissible. I know that clinical experiments can be absolutely essential and that clinical experiments may be performed under quite permissible conditions. Since Professor Schroeder and Dr. Ruff have already gone into the same subject, I need not say any more about it. I cannot see how these experiments are supposed to have been among destructive plans, which in the opinion of the prosecution are held in common by all the experiments on trial here. I believe that everyone who seriously deals with this problem, especially anyone who performs dangerous self-experiments on the problem as a Doctor must come to the conclusion that the point of view of completely rejecting human experiments does not help at all.

Q Witness, I have the impression that you have thought about the problem of human experiments more than the normal doctor does. So far you have spoken of this problem only from the point of view of medical ethics, but I do not believe that medical ethics is the only point of view which must be considered here. Will you please tell us something about this problem from the point of view of general ethics,

I believe that is rather important in this question.

A Of course general ethics also play an important role. The doctor is only one side, on the other side is the rest of the public such as private patients, experimental subjects, such as prosecutors or as judges, but I should like to point out two things. First, these are particular questions belonging to a very complicated specialized field which are very difficult to judge and it will not be possible without the opinion of an expert. On the other hand, general ethics is something which has been established eminently since the time of Adam and Eve, which finds only one correct solution for every question. I don't believe that the problem is as simple as that and misunderstood and misdirected ethics would not harm the Doctor, because there are always fewer doctors than lay-man, that would not harm medical science ethics, but it would harm humanity as a whole. I should like to give one historical example. Today hundreds of thousands of people annually would die of small-pox, would become blind, or would suffer defacing scars if Immanuel Kant's idea had prevailed, who in 1794 opposed small-pox vaccinations in the form of variolation as a violation of the laws not to bring one's self into danger of death and who a few years later opposed the introduction of vaccinations seriously because and I quote: "Through Jenner's inoculation humanity puts itself on a level with animals and a type of brutality might be injected from the animals." In spite of Kant's ethics, in spite of a lack of means opposed to vaccinations, which only existed in Germany, this problem has been solved for the good of the population, who was more ethical Immanuel Kent or an absolute state authority, which in a sense of racial planning ordered the doctors to perform vaccinations.

Q Now a final question on the ethical side of the problem. Witness, you know the oath of Hippocrates, which you have mentioned and which has been repeatedly quoted by the Prosecution and that it has been set up in a way as the binding fundamental law for all branches of medi-

cine; now I am a lawyer, not a doctor and I had little to say against this point of view of the prosecution and was quite astonished to hear some time ago on a program broadcast by a Munich radio station a commentary by a Doctor Suesskind who comments on this trial and who commented on the previous trial that a number of doctors had written to him saying that this oath had been to them only a vague concept up to this trial, because many of them had learned of it only long after they had finished their studies and worked as assistants. I was more astonished to learn that no doctor in Germany is ever sworn to this oath in its original form or any other form. Now, witness, will you please comment on this matter of the Hippocrates oath, which goes like a red thread through the whole trial?

A. I knew the oath of Hippocrates as a student already. After I graduated from high school in my first semester as a medical student, together with a friend who was studying philology, I read Hippocrates in Greek. I did not take this oath to Zeus and other Greek Gods any more than any other German doctor, nor did I take the oath in a modernized and improved form, as is the custom in some other countries when a young doctor receives his certificate. The oath of Hippocrates, of course, contains a number of very important and fundamental duties of a doctor, but it does not contain any more than Moll's book does any indications of the duties of a doctor as a research worker. Since Hippocrates himself was not only a practicing physician but without doubt a medical research worker of some quality, one can only conclude that he says nothing in his oath about the duties of the medical researcher, because he, probably just like Mr. Moll, realized the enormous and almost unsurmountable difficulties with which this problem confronted him, and again like Moll the oath of Hippocrates contains many things which, when it was written, 500 years B C, was valid and correct, but which has been changed in the meantime. For example, the strict separation between the doctor and the stone surgeon and the surgeon, has nothing to do with medical ethics, and if today in Germany the struggle against paragraph 218, for the release of social indications, for the interruption of pregnancy -

Q. May I interrupt you, you mean paragraph 218 of the Reich Penal Code, witness, which in Germany prohibited and furnished abortion and permitted it merely for medical reasons?

A. Yes, that is what I meant. If this struggle is being carried on today passionately and as the Article of "Nurnbergernachrichten" of the 18 January 1947 shows, is

carried out publicly, an advocate of paragraph 218 will hardly be able to refer to the oath of Hippocrates in his defense where an abortion was prohibited for all reasons, even for medical reasons. It was not forbidden because Hippocrates considered it unethical, but simply because in those days surgical technique was not developed to the extent that such an operation could be performed without danger. But I should like to point out one thing that I have always raised so far in the discussions of the Hippocratic oath. Hippocrates was the founder of a very limited medical school or guild on the island of Cos, and his oath was intended for the protection of this young guild of doctors against the priest doctors who had been all powerful up to that time. Hippocrates sealed his school hermetically against all others by this oath and his great ethics were that the followers had to swear that everything he learned at this school would never be told to any other doctor except to the members of the school of Cos who had taken the same oath. For Hippocrates the medical journals and medical text books would have been a very great violation of his oath and unethical for the purposes of his school. The oath of Hippocrates does have one great advantage, it comes from antiquity. Hippocrates himself did not write a long commentary on his oath and anything or nothing can be proved by it today.

Q. Witness, I think you have said enough about the medical aspect and I gather that you mean to say that neither Moll's book nor the oath of Hippocrates nor any other publication clarifies the ethical side of the medical activity, because this problem is so complicated that it cannot be settled simply. Now, in conclusion a final practical question whether the subjects were volunteers or not, under

what conditions would you personally consider experiments on human beings, not self-experiments, but experiments on other human beings permissible?

A. First of all the experiment must be necessary, that is, the problem underlying it must be important, and no solution must be possible in any other way. Second, the experiment must be conscientiously prepared for by model experiments, by animal experiments and if possible by self-experimentation of the doctor; and, third, of course, the execution of the experiment must correspond to the rules of medical action. That is the root of considerable thought which must be given to the matter here. Those are the three conditions which I consider necessary.

JUDGE SEBRING: I didn't understand your last words, he named three conditions. I didn't get them. I didn't understand the last one.

WITNESS: In the third place, the execution of the experiment must strictly conform to rules applied to medical action. I meant to say by that for the doctor as a research worker the experimental subjects must not be considered as a number or case but must be a human being just like any patient who comes to him for aid and he must take into consideration all their needs as human beings.

DR. TIPPS: Mr. President, I am at the end of the general questions and I would suggest that we adjourn now before going into the individual counts of the indictment.

JUDGE SEBRING: Witness, in regard to your views on human experimentation you have named three requisites, three, - one, two, three?

A. Yes.

Q. Now, suppose those requisites or prerequisites are present, to what extent in your view is it ethically

necessary to advise the experimental subject of the naturel purpose and perhaps reaction so far as he, the experimental subject, is concerned, to be expected from the experiment?

A. I would put that under point 3. I would say that just as the doctor should tell the patient as far as he can what treatment he considers advisable for a certain case, especially if it is an operation with a certain degree of danger, of course, the doctor as a research worker must tell his experimental subject so that the subject understands what the experiment is all about, what danger may be involved, what damage may be done, but also how important the problem is and what can be achieved b the solution of the problem.

Q. Could you approve as medically ethical any experiment which fell short of that point, of giving complete advice to the experimental subject?

A. If I may repeat your question, you asked whether I would consider it unethical to carry out an experiment with an experimental subject to whom I did not explain the danger and all of the details of the experiments?

Q. Precisely.

A. In an experiment which involves danger I would consider it absolutely essential to explain these dangers to the subject beforehand.

THE PRESIDENT: The Tribunal will now be in recess until nine-thirty o'clock tomorrow morning.

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 20 May 1947, 0930, Justice Beals presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are all present in court.

THE MARSHAL: May it please your Honor, all defendants are present in court.

THE PRESIDENT: The Secretary-General will note for the record the presence of all the defendants in court.

Counsel may proceed.

HERMANN BECKER-FREYSENG - Resumed

DIRECT EXAMINATION (Continued)

BY DR. TIPP (Counsel for the Defendant Becker-Freyseng):

Q Dr. Becker-Freyseng, yesterday, at the end of the session, we were discussing the general ethical fundamentals referring to the experiments on human beings which we concluded. Today, we are going to discuss the individual counts of the indictment as they are raised against you. The prosecution charges you at first to have participated in a conspiracy to commit crimes, together with your co-defendants, crimes against humanity and war crimes. I shall be very brief in connection with this count because in my opinion there is no legal basis for any conspiracy in that respect. However, that is a question which will later be discussed in your final plea. Therefore, witness, I ask you what was your connection before May 1945 with your co-defendants with whom you are alleged to have carried on a conspiracy?

A I did not know ten of my defendants. These are Dr. Genzken, Professor Mrugowsky, Dr. Rudolf Brandt, Dr. Poppendick, Mr. Sievers, Mr. Brack, Dr. Hoven, Dr. Pokorny, Dr. Fischer and Miss Oberhauser. I knew the names of four of the gentlemen on the basis of their position, but I never exchanged a word with them. These are Professor Karl Brandt, Professor Hanfloser, Generaloberstabsarzt Professor Gebhardt and Professor Blome. I knew Professor Rostock in his capacity as head of the medical faculty of the University of Berlin. On the occasion of qualifying as a lecturer I was introduced to him and I discussed this question with him. On the basis of mutual activity within the Air Forces, or rather within aviation medical research, I knew Professor Rosa, Dr. Ruff, Dr. Romberg and Professor Woltz. In the same way, I naturally also knew Generaloberstabsarzt Professor Schroeder as my highest superior. I knew Herr Doctor Konrad Schaefer and Professor Beilbock.

Q Before I start entering upon the subject of the individual experiments, which are the subject of the indictment against you, I may ask you to describe your position during the war. You knew that it is your position in particular which has been taken by the prosecution as the basis of the indictment against you. In my opinion a number of concepts have to be clarified which have been either misunderstood or mistranslated. The first point, the prosecutor in the session of the 12th of December 1947, in the English record, page 309, designated you as Chief of the Department of Aviation Medicine with the Chief of the Medical Service of the Luftwaffe. Accordingly, you are to have occupied a leading position in research work. You had the key position in the air medical research, as Professor Alexander once described it. May I ask you, witness, to clarify this point here?

A First, I have to say in that connection that with the Chief of the Medical Service of the Luftwaffe there was no department at all for aviation medicine.

Q Witness, I believe that before clarifying your position in particular it will be necessary to describe to the Tribunal briefly the organization and the structure of the Medical Service. I think it is necessary to do that in order to understand what you really wanted to testify. Would you please do that.

A Yes. Professor Schroeder has described the structure of his office in this witness stand, seen from his own perspective. In other words, he saw the pyramid from its top. Since I was really at the base of this pyramid, may I again describe the structure from my perspective. In the Medical Inspectorate, rather, in the position of the Chief of the Medical Inspectorate of the Luftwaffe, approximately 25 referents were active. Every referent administered, I might say, a definite referent. Any such referent consisted of this one referent, one female clerk, and on some occasions, one soldier who was a clerical assistant. I do not believe that this unit in the German usage of language can be designated as a department. These referents were organized in groups or departments. In the office we had two such departments, the so-called first department, or organizational department, and then the second department, or the medical department.

To each of these departments belonged perhaps eight referats and at the head of each department was the department chief. In addition to these two departments there were two so-called independent groups or units and one independent referat. These two independent groups were the groups for medical air precautionary matters, then the group for the pharmaceutical service. The independent referat was the referat for budget matters concerned with all financial questions. The essence of these independent referats were that the head of these groups, the budget referat, with his sphere of work, held the position of a departmental chief. That is to say he could make independent decisions, which was expressed by his signing the letters himself which emanated from his field of work. All the other referats had no authority to make decisions.

Q I think it would perhaps be better to go into the details a little later. Now we are talking about the structure of this office and you were just saying that the lowest branches were the referats, which were combined in the departments and at the head of each there was a departmental chief; would you please continue.

A Yes. Above these two departmental chiefs, or the independent referats, was the chief of staff and over the chief of staff there was the medical inspector, who from the first of April, 1944 was the chief of the medical service of the Luftwaffe.

Q In order to summarize, witness, this agency had the structure of a pyramid, the bases of which were the individual referats who were each headed by a referat. In the referats were included the department of which there were two. The highest position was the medical chief himself, who was at first Professor Hipke and then Professor Schroeder. Between

the departmental chief and the medical chief, there was also a chief of staff. You yourself were one of twenty five referats and at first you were only an assistant referat.

.. Yes, this description is correct.

? Very well. Now, witness, let us continue where we interrupted earlier. Let us talk about the assertion of the prosecution that you were the chief of the department for aviation medicine.

.. It can be seen from my description that no such department existed; for that reason I could not have been the chief of a non-existent department.

? What was really your position from what time on did you hold it?

.. In August of 1941 I was assigned to the medical inspectorate as an assistant referat at the Referat Aviation Medicine. I remained in that position until 15 May, 1944; from 15 May 1944 until 8 May 1945 I was the referat for Aviation Medicine.

? One further question for clarification. Witness, you know that your co-defendant Dr. Schaefer designated you as the research consultant of Professor Schroeder. This can be found in the document book of the prosecution, document book No. 1, I beg your pardon, document book of the prosecution, document book 5, document No. 474, Exhibit 131, on page 6 of the German and page 6 of the English document book. Would you please once more clarify this point clearly?

.. I do not believe that Mr. Schaefer meant that I was the research consultant in all research matters. Dr. Schaefer had much too little insight into our office in order to know that. In addition he has far too little military or organizational experience in order to be able

to deal with these questions at all. At the most, he could only answer this question from the very narrow prospective of the research in which he acted in collaboration with me. I, therefore, do not believe that he really wanted to express any such general opinion.

Q One further question, witness, you were saying that in your opinion Professor Schaefer did not mean that you were then research consultant in all medical question; in your position as referat from May, 1944 were you not at least the research consultant in the field of aviation medicine?

A I was referat and not a research consultant; that becomes evident from the fact that in the agency of the chief of the medical service of the Luftwaffe, there are approximately 20 to 25 so-called consulting physicians and among them there were four consulting physicians for aviation medicine.

Q Could you tell us who these consulting physicians for aviation medicine were?

A These four consulting physicians were: first, Professor Strughold; second, Professor Anthony and after he had been transferred then Dr. Benzinger and then either Dr. Kottenhoff or Dr. Koch, I no longer know that exactly.

Q Witness, it may be advisable now to compare the activities of the consulting physicians with the activities of the referat; when for instance would the medical chief turn toward the referat and when would he turn toward the consulting physician on aviation medicine?

A The referat was always approached whenever it was a question of dealing with current work. For instance, whenever some request or some question arrived from a technical agency or an army unit, whenever a suggestion arrived from a research institute by mail at the office,

it was a matter of course that the referat in charge was entrusted with the dealing of this matter. When, on the other hand, we were concerned with a scientific proposal, let us say a proposal for a new research assignment or something like that, and it was a matter which was not absolutely clear, then either the referat on his own initiative suggested to him the attitude of the consulting physicians on that subject, the attitude of either one or more of these consulting physicians or the department chief, or the chief of staff or the medical chief, did it on his own initiative or ordered it. Naturally the referat also uttered his view regarding any such proposal. We were in no way just mail clerks or file messengers, but under circumstances the referat suggested a number of alternatives on that subject, he pointed out the many difficulties and in order to solve these difficulties he asked that another recognized expert be heard on the subject, an expert for instance in the form of the consulting physician. In order to put it explicitly, while a personal view was expected from the consulting physician a material view was expected from the referat - perhaps many of those material views.

Q If I understand you correctly, witness, the referat so-called delivered to the medical chief, the so-called technical equipment and he dealt with all the technical preparations for any decisions that had to be made, whereas the consulting physician made the actual proposals for any work that was to be carried out; is that a correct presentation; we shall discuss that of course in detail a little later.

A Well, this distinction between the technical and material prerequisites... Of course, the suggestions made

by the referat were also material, but as consulting physicians we always had top experts in the field whose opinions were in no way binding for the medical chief. The medical chief just listened to their opinions, in other words, what I want to say is the consulting physician had to adopt a more personal manner toward these matters.

J. I think, Mr. President, that this point has been now clarified somewhat. I may recall in this connection the testimony of Dr. August Dienock who was heard as a witness for Professor Schroeder, and who also had given some testimony in regard to that point. This was in the session of 28 February 1947. You will find the corresponding testimony in the German record on page 3764 and in the English record on Page 3726.

THE PRESIDENT: Counsel, I note that in document No. 474, the affidavit of defendant Schaefer, to which you referred, the defendant Becker-Freysing is described as a research adviser and not as a research consultant. I don't know whether that makes any difference in the German language but from what you said yesterday it seems to me that the English word "consultant" conveys to you a somewhat different meaning from that which it frequently conveys to us. Of course, many words are used sometimes in a different sense, but this exhibit to which you referred, the one I gave, uses the word adviser, not consultant.

DR. TIPP: Mr. President, I may say perhaps the following in that connection. This word "consultant" in particular has been used in various meanings during this trial. As a rule as far as I could ascertain this word was used for the so-called consulting physicians. The interpreter translated that word this morning as consulting physicians, whereas the other interpreters perhaps just said "consultants" but I do think that this point has been clarified sufficiently and I need no longer go into it.

MR. HARDY: May it please the Tribunal, this point is one which has taken a considerable length of time in this Tribunal in that Schroeder spent some time on it and Mr. August Dienock spent some time on it, and now we are

here again and I must frankly admit from the explanation we have this morning I am confused. I knew what referent was and I knew what referat was and I don't know now and I am going to ask the Tribunal if they will ask the translation department for an interpretation of it and to study the difference between the translation of the word referent and referat. I understand referat is a department and referent is a sub-department, and therefore the words referat and referent is perfectly clear in the English language and to quibble about whether it is a department, referent for aviation medicine, or a referat for aviation medicine is basically immaterial, and I think we should at this point of the trial establish a definite definition for a referent and a referat and consultant and so forth so that we can proceed in our briefs and set forth just what they are without further arguments; the prosecution maintains a referat is a department and we have nothing to object to, and it is just a minor point and there is no point of arguing about it if we can establish it now through the interpretation department.

DR. TRIPP: Mr. President, I must object to Mr. Hardy for the following reasons: He has just stated now for the very first time that the prosecution is now of the opinion that a referat was a subdivision of a department. Up to this point the Prosecution has not expressed that as clearly as that. It may be that this difference could be explained by the various translations and I think that I can agree with Mr. Hardy now by saying that a referat is a sub-organization of a department. In other words, the department is the superior agency of the referat. If I have understood Mr. Hardy correctly so far and if this is now the opinion of the prosecution we are in absolute agreement.

MR. HARDY: If that is the case, Your Honor, then there is no problem any longer and if defense counsel admits referat is a department.

DR. TIEP: No, I beg your pardon, Mr. Hardy unfortunately contradicted himself. He just stated two minutes ago that the referat was a sub-department, and now on the other hand he is saying that the referat was a department and I think these two concepts would have to be distinguished once and for all. In order not to speak at length about this point I may suggest Mr. President that the defendant Becker Freyseng make a sketch which would illustrate the structure of the medical inspectorate in detail and that in this sketch the corresponding German and English names would be inserted. Of course, he couldn't do that today but he would do it within a few days and in this manner it would reach some amount of clarification.

THE PRESIDENT: The defendant, Becker Freyseng, may when he can, prepare this sketch which has been suggested and present it to the Tribunal and I think the Tribunal has quite a good idea of the meaning of these words but the defendant may prepare this sketch.

BY DR. TIEP:

Q. Witness, after this interruption, let us continue with our questioning. You were saying that you were a referent as far as you haven't done that already.

A. Well, the tasks of the referent exhausted themselves in his right to make suggestions. The referent had no possibility to make an independent decision. This meant that he was not allowed to sign any one's letter personally and that without any exception. The only exception to which I may perhaps refer is that in the case of a copy he was in a position to certify the authenticity of that

copy, but that, of course, has nothing to do with the signature as an expression of the decision made.

Q. In this connection, may I recall that Dr. Witt and Dr. August Dienock, the two witnesses who were both referents in the medical inspectorate, have given the same testimony about the rights of a referent. That was done on 28 February, 1947. The two passages can be found on page 3761 and 3768 of the German, as well as on page 3725 and 3749 of the English record.

Witness, what was the collaboration with your superiors within the frame-work of the medical inspectorate? In particular tell us about your collaboration with your superiors and especially with Prof. Anthony, as long as he was the referent and you were the assistant referent?

A. In order to answer your second question first, which refers to my relationship to Professor Anthony, Professor Anthony was lacking the most essential property of a superior, namely, he was in no way to make any decisions which concerned me. I was attached to Prof. Anthony in order to assist and support him. My relationship to him may be illustrated best by saying that Anthony was about fifteen years older than I and that for many years he had been a University Professor and an independent head of a large clinic for internal medicine and that from a military point of view he had been a stabsarzt, for a long time, whereas I was only an assistant physician, an oberarzt, and I might say that my relationship to him perhaps corresponded to this relation of a clinical assistant or a scientific assistant to his medical and scientific chief. I always addressed Anthony with the words "Herr Professor" and it was quite natural that Anthony was working on a large field within the referat

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independently and only entrusted me with various tasks within that sphere or rather had orders given to me by my departmental chief. My personal relationship towards him was good. I think this is all I can say about that.

Q. Now, witness, would you please illustrate your relationship to your next superiors which are, first your departmental chief, and Chief of Staff, and Medical Inspector?

A. My relationship to my military superiors can be seen when considering the structure of the agency. In other words, I had to deal with all suggestions, drafts, proposals for reply, etc., which I had to submit at first to my departmental chief who signed a part of these letters himself as far as they were not concerned with decisions on principles. The letter he either submitted personally or in my company to the Chief of Staff who again signed a great part of these letters and then, in turn, decided which letters were to be submitted to the Medical Chief of the Medical Inspector for his signature.

Q. The lowest man holding the lowest position who could make decisions and sign letters, if I understood you correctly, was the departmental chief.

A. Yes, this was the lowest position which could make independent decisions.

Q. Now, witness, was it really true that the referent bore no responsibility for what he suggested and for what he prepared. If that is not so what was his task, what was his responsibility, in your opinion?

A. I never saw any job directive on job regulation, for the referent but I always considered my position as a referent as a very responsible one and I always considered very carefully whatever I was suggesting. I may say that for that reason I had to work day and night.

Perhaps I may point out the following: Not only did it occur very frequently that I as a referent submitted a number of possibilities to my departmental chief for his decision from which he could then select the one which seemed most proper to him. It also occurred very frequently that altogether he rejected any proposal which I made. For instance, approximately the end of April or the beginning of May 1944

when taking over the referat from Anthony I had suggested to attach an training company to the lecture department at Jueterbog. I did that in order to get a personnel reserve in that training company from which we could obtain sufficient soldier volunteers as experimental subjects about whom an agency within the medical service would be able to dispose. Had this suggestion been adopted at that time Dr. Schaefer and Dr. Beiglboeck at least would not be sitting in this dock. This suggestion of mine was rejected by my departmental chief.

Q. Mr. President, in connection with latter point I shall be in a position to submit an affidavit by Professor Dr. Knode the chief of the then Training department Jueterbog. This affidavit has been requested but was unfortunately not yet received. Witness, generally you described what the responsibility of a referent was. Could you perhaps illustrate the details of your activity by giving us a concrete example? I think the sea water experiment would be the best example in which you yourself participated in the capacity of a referent. What did you do briefly in that connection?

A. At first I informed myself exactly about the nature of the two procedures of which we knew. I informed myself about the necessity and the nature of any new experiments. I informed myself about Professor Beiglboeck and his qualifications as an experimental leader and finally I informed myself about the various possibilities which existed in the summer of 1944 to carry out the experiment. This material was presented to my departmental chief, then in his presence it was submitted to the Chief of Staff and after this information had been examined and approved of my superiors it was submitted to the Medical Chief who on the basis of it then made his decision.

Q. Accordingly your responsibility as a referent was really an inner office responsibility whereas the actual decision which went to other agencies was made by your superiors?

A. Yes, this is how you could perhaps express it.

Q. Now, the Prosecution here on the 10 December 1946 has asserted that you had issued orders. They said that you had issued orders to Professor Haagen who plays a considerable part in this trial. According to what you are saying now this opinion of the Prosecution is erroneous but would you please repeat it here?

A. I neither had the right to issue orders nor did I at any time issue such orders.

Q. Finally in connection with point may I again refer to the testimony by the witness Witt, on 28 February 1947, page 3789 of the German transcript and 3751 of the English transcript. He made a similar statement to what the defendant has just said and I also point to the testimony by Professor Schroeder who was the highest technical superior of the defendant of 26 February, 1947, on page 3559 in the German transcript and on page 3536 of the English transcript. Now, witness, may I ask you to discuss the details of your activity. You were already saying before that you had been an assistant referent from August 1941 until 1944. and that you were a referent from May 1944 until the collapse of the German Wehrmacht. Would you now tell us what your tasks were as an assistant referent?

A. As an assistant referent I was entrusted with a number of detail tasks which came up within the referat for which I bore the same inner-office responsibility as when later on I became a referent. The difference in effect was that as an assistant referent I didn't have the possibility nor the task to include myself into all questions concerning the referat and concern myself with them.

Q. And who, witness, gave you those individual tasks?

A. It was my departmental chief, at that time Generalarzt Dr. Marius who was my direct military superior.

Q. Witness, in your position as an assistant referent were you the permanent representative of the referent. For instance, whenever Professor Anthony was on vacation or on an official trip, did you

represent him?

A. No, I was not his permanent representative but only from case to case when it was specifically ordered. May I point out that only two or three of all the referents had any assistant referents attached to them. It occurred very frequently that when a referent went on some official trip although he had no assistant referent, therefore it wasn't necessary for every referent to have an assistant.

The departmental chief always knew what was happening.

Q Witness, I think that we can clarify this point by the document which was submitted by the prosecution. It is in Document Book 12 of the prosecution on Page 77 of the German and 74 of the English Document Book. It is a letter written by Professor Rose dated the 9th of June, 1944, addressed to Professor Haagen at Strasbourg. It was submitted under Document No. NO-306 and bears the exhibit number of the prosecution 296. I may ask you to give your opinion about that letter and I shall quote the second paragraph:

"Did you hear anything from Department 1 relative to its position with Mitte? It will take some time until "2-F" produces its new research order as Anthony is on a duty trip for several weeks."

These code letters "2-F" were, at that time, the designation for the referat Aviation Medicine, weren't they?

A Yes.

Q Would you tell us at first how this letter originated? It is, no doubt, from Professor Rose, but perhaps you can remember the incident which led to this information.

A I can only say that on the basis of Professor Rose's testimony on the witness stand. I have no personal recollection of the incident, but since Professor Rose has stated here that he asked either the departmental chief or the referat how the Haagen research order was proceeding and since he received the reply that one would have to wait until Anthony returned, it is, of course, absolutely possible that I gave them that information at that time. Of course, after four years have elapsed, I can no longer remember all that.

Q In that case you are saying that nothing could be decided about the new research order for Haagen until Anthony came back from his trip. Is it correct if I conclude therefrom that you were not Anthony's deputy in these questions?

A Yes, this becomes clearly evident from this letter for had I been Anthony's deputy in this special field or even quite generally then one could not really understand why one should have waited many

years with the issue of that research order until Anthony returned. But I may mention in that connection that it naturally occurred that certain part assignments which I received also meant research orders for me. I assume that if, in the question of this research order to Haagen, we had been concerned with the mere prolongation of an order which had existed for many years then I may have perhaps received the order to work on the subject, but this document proves clearly that in this field even in the year of 1943 my authority was very limited or rather hardly existed at all.

Q Witness, one more clarification in that connection. The Department 1 which is mentioned here is probably the organizational department, isn't it?

A Yes, that is the first or organizational department which I mentioned before.

Q The position with Mitte which is mentioned here is probably the position of the consulting hygienists with the Air Fleet Physician which Haagen later occupied, isn't it?

A According to what I learned here during the trial this can only mean that. Of course, at that time I had nothing to do with it.

Q Now, witness, let us continue with the referat. What subjects actually belonged to the referat of aviation medicine?

A The layman, when dealing with the words "aviation medicine", if he imagines anything at all, thinks of the two classical fields involved. This is, at first, the effect of acceleration and, secondly, the effect of high altitudes or, in other words, the effect of any lack of oxygen. These two fields, naturally, have their priority and retained that priority even during the last years. But by using the Air Force for war purposes an enormous amount of new problems was added. I can, in passing, name only a few of these problems perhaps. There were general physiological questions about respiration and circulation. There were questions concerning general and special pathology which resulted from air accidents and, in particular, in the

case of high altitude accidents. Questions arose in connection with the so-called physiology of the senses; for instance, night-sight, space-sight, or the special demands made on the person's hearing or the inference of the noise of the motor to any one person's hearing. In that connection we have to deal with pharmacological questions, e.g. the improvement of resistance in high altitudes by the introduction of drugs which would increase efficiency. There were certain psychological questions which concerned the selecting of fliers and the training of fliers. Medical research under particularly difficult emergency situations; for instance, sea emergency, desert emergency, mountain emergency situations. To this subject belong the medical special measures which have to be taken in connection with the flying personnel. For instance, we have the fliers' examination stations, the examination stations where we tested the effects of high altitudes and, in part, there were hospital departments where the fliers rested after extensive flying. Special institutions, like special equipment, special clothing and special nourishment for the flier. Then there is the development of the apparatus for the piloting of airplanes from the point of view of the psychological and physiological considerations, and, finally, I should like to point to the numerous problems which arose during the air war. The carbon monoxide effect, the effects of heat, etc., in which aviation medicine worked. In addition, the referat had to deal with the construction and modernizing of the low pressure chambers; education of the flying physicians; current orientation about special literature. In that connection, interest in patent questions which arose from research in aviation medicine. In conclusion I may say that the aviation medicine is, in no way, a medical special field which, in the case of all other medical special fields, concentrates on a certain organic system or concerns itself with a certain manner of therapy or examination as, for instance, eyes, eye diseases, throat, ear, nose, etc., but aviation medicine comprises all spheres of medicine in its connection to the flier.

Q The witnesses which were heard here - Professor Dr. Woltz and Dr. Ruff and Dr. Romberg - have already conveyed their impression to the Tribunal concerning the practical work in the sphere of aviation medicine. They were telling us what fields were worked upon within the referat and, in that connection, I may ask you what, in effect, was the practical work of the referat in respect to all those spheres which you just mentioned?

A If I may answer this question briefly, the referat had, in some way, the position of a mediator, between aviation medicine on one side and the flying units on the other. From both sides we received suggestions, reports about experiences, requests, etc., which were dealt with at the referat. These suggestions were either passed on or were realized in the form of directives, directed to troops, army physicians, research institutes, or hospitals. In addition, of course, there were connections with the civilian research units to whom, of course, we could issue no orders and who were in connection with us by the issue of the so-called research assignments. They received financial support and other support for their scientific help.

Q Witness, at a later date we shall discuss the research assignments in detail.

THE PRESIDENT: Counsel, the Tribunal will be in recess for a few minutes.

(A recess was taken)

THE MARSHALL: The Tribunal is again in session.

BY DR. TIPP:

Q Mr. Becker, when we stopped we were discussing the tasks of the referent for Aviation Medicine in general. You said that he occupied a sort of intermediary position between the theory on one hand, which is invited in the research and the requirements of necessity on the other hand embodied in the troops. I must assume that through such intermediary positions a large number of negotiations were necessary for each side, that is to say negotiations both with the troops and the gentlemen conducting research. Would you please tell us how this was in detail and what duty the referent had in such negotiations?

A The greater part of our relations with research and the troops took place in writing, of course, but it is clear that in some cases there were also oral communications. Since the departmental chief was in charge of about eight referats and referents, it is quite understandable that many of these negotiations were carried out by the referent alone, particularly in connection with official trips outside of Berlin. Here also, it was a general principle that in such conversations the referent could not make any decisions, but reported the results of such discussions to the departmental chief for confirmation and then this confirmation was given in writing to the person who was involved in these negotiations.

Q Now, witness, a concluding question. As you said from 1941 until 1944 you were in the medical inspectorate, that is to say at the very top of the German Luftwaffe and you know that in the troops in the field there was the rumor that the men who were active in such positions had great advantages on the basis of their position, either to receive preferential promotion or that they received higher salaries and that they received military decorations. In the course of your activities, which covered years, did you notice any such advantages in your position or benefit from them?

A No. I received no such advantages, I received no decorations, I received no higher salary and I received no higher rank and let me add that was not customary at all.

Q Now, I would like to clarify one further point with you, the so-called technical aviation research: what connections were there between the referat or the medical inspectorate as a whole and the technical aviation research?

A As of 1944, for the sake of brevity at this time, the technical aviation research was under the direction of the so-called research leadership of the ministry. At the head was Professor Georgii, the well known aviation research man. He had a medical referent from 1937 to mid 1944 and that was Dr. Benzinger. In order to avoid the difficulties, of uncoordinated medical research was difficult, having already been noticed in the sea-water experiments. In the summer of 1944, I was made Dr. Benzinger's successor and thus was Professor Georgii's referent.

Q Not to whom was the research leadership subordinated?

A It was the chief of the Air Armament, it had nothing to do with the chief of the medical inspectorate.

Q The activities you just described, as medical referent with the research leadership is not one of the charges in the indictment, consequently, we can ignore that aspect of your activities. I now return to the beginning of your work in 1941, at that time, as you have already said, you were assigned from the front to the medical inspectorate without your having done anything to achieve that; what was the practical reason for your being called to the medical inspectorate as assistant referent?

A The reason or reasons are known to me. In the course of 1941 two new fields of work arose. The then inspectorate, Dr. Anthony, was to take over, he was however not particular as it would have meant too much work for him. Dr. Ruff already said that in 1941 in the summer, on the instructions of Hippke, the medical inspectorate at that time, he inspected all low pressure chamber in Germany. He drew up a report on this inspection

tour and turned it over to the medical inspectorate and explained in this report that practically all the low pressure chambers were seriously deficient in one way or another and were not completely modern and did not meet modern requirements. This meant that the medical inspectorate had to take these thirty or so low pressure chambers and modernize them and remodel them. That was the first of the two tasks which I mention. The second new field was the following: when the war began the flying units in the German Luftwaffe received for the first time their own troop physicians. These troop physicians had to turn in every month a so-called aviation experience report and these aviation experience reports were sent to the medical inspectorate in the original along with comments of the people on the way. Since at that time there were three hundred to four hundred flying units - so-called groups - there arrived a similar number of these aviation experience reports every month. In these reports, the air physicians went into all the new experiences that they had had because the air army was being used in the army. For instance, air accidents, high altitude accidents, whether or not certain equipment for correcting purposes would be good, etc., was included. The experiences that had been had had to be evaluated, of course, as soon as possible and put into practice for the general welfare of the flier's health. For this reason, reading through these reports had to be done as rapidly and meticulously as possible; that was the second task.

Q And these two fields were turned over to you in August of 1941 as assistant referent?

A Yes, I was commissioned on the one hand to carry on with Dr. Ruff's proposals and to get the modernizing of the low pressure chambers under way. This necessitated an extensive constructive program which took almost two years. I had to make numerous official journeys to the construction sites and to the offices in the field, etc. Secondly, I was commissioned to work over the three hundred to four hundred monthly experience reports from the air physicians and to report on them.

Q Dr. Ruff, whom the witness has just mentioned, testified in the minutes of 29 April 1947, page 6711 to 6713 in the German record and page 6619 in the English record. Now, witness, during your activities as assistant referent did you have only these two fields of work?

A. As an actual field of work those were the only two that I had. In addition, of course, I had other single assignments of a brief nature, but let me remark here that was with the approval of my departmental chief and the medical inspectorate from 1941 until April 1944. In other words, throughout my whole activity as assistant referent I was scientifically active in my own institute and the medical research institute, which Dr. Strughold in his affidavit, which was put in yesterday, corroborates. During this period I did extensive research in oxygen poisoning and in 1944 I qualified as a lecturer. My personal and professional inclinations still remained of a scientific nature. My purely administrative work in the medical inspectorate I always regarded as my soldierly duty and which I was to do decently and for the general welfare of the soldiery under our aegis.

Q. Now, working on the rebuilding of the low pressure chamber and working on these experience reports were the only two fields that were assigned to you, as larger independent fields, as long as you were an assistant referent, is that correct?

A. Yes.

Q. According to that then, the fields that played a decisive role in this trial, namely, one, working on high altitude and freezing problems, were not part of your major fields of work, but certainly, and secondly, the work on the research assignments which you haven't mentioned?

A. Yes, that is correct.

Q. In May of 1944, as you said, Professor Anthony was relieved of his position and you took his job as referent. Did you in your turn receive an assistant referent under you?

A. No.

Q. Now witness, you have described referat for aviation medicine and from this it can be seen that its scope was by no means small. Now, in view of the conditions that prevailed in 1944, were you able to do all of that work alone as referent, whereas previously Professor

Anthony had need of an assistant?

A. Yes and no - depending - since some of the work of the referat in the summer and autumn of 1944 on command of the medical chief was transferred to the Lehrgruppe (training group) of the Aerztliche Akademie of the Luftwaffe, and this made it possible for me to do all of the work.

Q. Now what part of the referat work was transferred, witness?

A. Let me limit myself to what is of interest to us here. About all the ground work on all research assignments had been worked on in principle in the referat and had been assigned as assignments by the medical inspector. In other words, everything else done on the assignments was done by the Lehrgruppe.

Q. Now we are coming, witness, to what constitutes the main charge against you, namely, the so-called research assignments. You know, Dr. Becker, that these research assignments have played a very large role in the interrogation of all the witnesses to date. However, I feel I still must discuss this subject with you. The prosecution has laid particular and main importance on precisely these research assignments. Let me, however, still ask you to be as brief as possible. What was your relationship to the research assignments and what do you have to say about them?

A. Let me refer to what Professor Schroeder has already said about these research assignments, and Professor Rostock. I can corroborate everything they said, but I can supplement them a bit from my point of view as a referent. Aviation research was carried out at first without any research assignments by the aviation medicine institutes and the autonomous Luftwaffe institutes. That was the aviation research institute in Berlin and the institutes for aviation medicine in Hamburg, Munich, and Freiburg, and the medical training department in Jüterbog. Then there was a group of aviation medicine institutes that were not subordinate to the chief of the medical service of the Luftwaffe, including Dr. Ruff's institute and the medical department

of the testing station in Rechlin, and a medical institute in the aviation research institute in Munich under Dr. Hentschke. All of those institutes were occupied by specialists who knew aviation problems at first hand and did not have to receive special instruction for every single piece of research and every experiment, but these institutes also received under certain conditions research assignments which were usually of a more financial or organizational nature. On the other hand, of course, it was even possible that the medical inspectorate either gave research assignments directly to its own institute or told institutes not directly subordinate to work on such assignments. By far most of the research assignments went to civilian research men in civilian institutes. The purpose of these research assignments has already been described at great length by Professor Rostock. In certainly ninety percent of all the cases the research men wanted on his own initiative to receive such a research assignment in order to be able to continue scientific activities during the war and this is also the reason why the institutes which belonged directly to the Luftwaffe did not need such research assignments and consequently worked for all practical reasons without any research assignments at all.

Q. Witness, you said that the civilian institutes made efforts to receive research assignments in order to be able to carry on their work. Now, we know that the civilian institutes were not subordinate to the military authority but to civilian authority in the Reich Ministry of Education. Now these agencies, it seems to me, should have been the ones to give support to these institutes. I know that in America such institutes received very considerable financial support. Now, let me ask you, witness, was the civilian research in Germany in such a bad situation or was the support so lacking by the civilian sector that in order to further carry on their important research work they had to turn to the armed forces or, as in this case, to the medical inspectorate of the Luftwaffe?

A. Professor Rostock has already answered this question. The

university institutes above all received very little financial and personnel support from their superiors. For example, the Physiological Institute of the University of Wuerzburg had an annual budget of 13,000 marks, another Physiological Institute had an annual budget of 8,000 marks. In addition, during the war there was the difficulty of retaining our scientific personnel and to receive the necessary material, even if we had the financial means to obtain it, because we couldn't get a high enough priority, and, of course, during the war most of this stuff went to military departments and institutes. Now, the institutes of the Luftwaffe quite understood this matter and were only too happy to meet it. On the other hand, I don't want to create the impression that these research assignments were simply somebody doing somebody else a favor. Many applications for research assignments were turned down if there seemed to be some objection either to the person or to the subject. I believe that the 97 research assignments that can be seen from Document 934, Exhibit 458, can maintain themselves against any sort of criticism even today insofar as the person in question and the detail of research is concerned. Each of these 97 research men could show such authority and claim for his research assignment no support.

Q. Now, witness, if we take a list of your research assignments we see that a part of these research assignments are concerned with militarily important matters. Because the work is during war time that is understandable, particularly since the medical Inspectorate is a part of the Luftwaffe. However, one sees also that some of these assignments are concerned with matters that apparently have nothing to do with military or specifically Luftwaffe matters. Now, witness, was the case not as follows: The Medical Inspectorate assigned only commissions of military importance and only gave financial support to such assignments and, if that is so, how is it that there are assignments in this list which are not of military importance?

A. The reason for this is that both the Medical Chiefs and the departmental chiefs and the referents saw perfectly clearly that applied research is not possible without a very broad foundation in basic research and precisely aviation medicine as applied research always saw itself before the necessity of acquiring basic scientific knowledge as to the foundation of its applied research. If applied science is to be carried out as science in the true sense of the word then there has to be a very broad foundation of what I referred to as basic research. You have already referred to Document 934, exhibit 458. When in the autumn of 1944 I turned over all the research assignments to the training groups in the Military Medical Academy in Berlin there were on that particular day exactly 100 assignments to date. I happen to have a list from that time available which shows the following:
45 of these assignments, that is 45% of the whole, were purely basic research, the applicability of which to

practical questions during the War was neither considered nor expected to be very likely. This was a sort of research that had been and would have been carried on during peace time as well. 40 assignments, that is 36 % of the whole, concerned the collection and compilation of military experiences in the medical sphere during the War, measures to prevent accidents and disease. Particularly should be mentioned here research into protection against air raids. 16 assignments, or 15 %, concerned the selection and competence of flyers and only 4 assignments, roughly 4% of the whole, concerned the increase of aviation or flying efficiency in War time. I believe that this breakdown of this list clarifies adequately the purpose of these research assignments during the War. With the help of such research assignments the Luftwaffe alone supported the work of many well known institutes and workers and not only supported it but made it possible at all.

Q. Witness, let me sum up your answer by saying that the Medical Inspectorate of the Luftwaffe did not carry out aviation medicine specific research but carried out research on a very, very broad and general basis.

A. Yes, I believe that can be seen from the list of 7 research assignments.

Q. Now witness, another point. You know what the Prosecution has deduced from the themes involved in the research assignments and now I want to ask you how were these research assignments checked on? How were the research men checked on who were working on the assignments?

A. Here again let me refer to what Professor Rostock testified to. Anyone who has ever put his head inside the door of a scientific institute and who knows the position

of a German professor or a German director of an institute knows how such a checking is possible at all. In view of this list that has been mentioned several times, document NO-934, exhibit 458, it can be seen that 40% of these assignments were given to ordinary German professors directly.

Q. Witness, let me interrupt, by this word "ordinarius" you mean regular professors that regular professors that were teaching in German universities.

A. I was just going to explain that - scientists whose practiced in his specialized field in a clinic or in a university institute - men who were recognized as specialists and authorities in their field. These were men to whom these institutes were given. An additional 45% of these assignments were given to directors of other scientific institutes, for instance Cherkow Institute at Bad Nauheim, the Kaiser Wilhelm Institute for Physiology in Munich, or the Kaiser Wilhelm Institute for Biochemistry in Berlin-Dahlem. The remaining 17% of the assignments went to younger associates in the institutes who, however, had all of them been active for years in scientific fields. I believe, one will admit that supervising of these scientists, checking on them and some of them were very difficult persons to deal with, would have been a very difficult matter. If I visited such a scientist in his clinic or his institute then I could not appear before him as his superior somewhere else because the Medical Inspectorate of the Luftwaffe could not give orders to a director of such an institute. And, if this scientist is also a member of the Medical Inspectorate of the Luftwaffe, then within his own institute he would have been his own master and would not have been subordinated

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in that activity to the Army and I believe that every ordinary professor in a German University would have forbidden my supervising him and would have been justified in doing so.

Q. Dr. Becker, you were active in science even during peace time and consequently you can possibly answer the following question: Was such supervision, such as the Prosecution seems to feel was a duty, was such supervision customary at all and secondly was it necessary?

A. No, nobody considered such supervision necessary. The scientists, after all, were mature men and experienced scientists and it was not to be expected of any of them that they would do anything illegal or wrong. Nor was such supervision customary, and during the time that I was an assistant at a university clinic I never was subjected to any sort of supervision by any superior. I can only say then if we had been supervised and we had had something to conceal then you must expect that we would be clever enough to keep it very well concealed so that even a supervisor wouldn't find out about it. There is a special term in German conversational language for this that is known as "einen Turken bauen", that is to say, setting up a sort of Potemkin village before anybody who was going to supervise -- put up a false front.

Now tell me, witness, this sort of supervision that the prosecution refers to, would it have been carried out by you as referent or by the Chief of Staff or by the Chief of the Medical Inspectorate or by any or all of them? Could you or the medical chief even have had the possibility of checking on and supervising this work in view of the fact that the research assignments cover just about the whole field of medicine, as can be seen from that list?

A. I can answer several things to this. First of all, we didn't have the time because the research assignments were only one part of our total work. Everyone of us, of course, in the fields in which we were specialists could have carried out a supervision with success, but not in a specialized field in which we had not worked ourselves or in which we had no specialized knowledge or experience. For example, we could never have reproached anybody in the field of high altitude research or in the field of oxygen poison, but, even in another specialized field of aviation medicine, I would have had to rely on what the research man in question told me not being a specialist myself.

Q. Let me say, to sum up, the same was true of the Chief of Staff

and the Chief of the Medical Inspectorate himself, because, at the very best, they would have been specialists in only one field with specialized knowledge that would have enabled them to supervise that one field but certainly did not have specialized experience in the dozens of fields that were embraced by this list of research assignments.

A. That is so.

Q. Witness, one additional question. In what form were these research assignments made? Let me say briefly regarding this that the Prosecution seems to have the idea that the research assignment did not contain merely the theme but also precise and exhaustive details as to how the research was to be carried out. That is to say, the researcher, according to the prosecution, was not given only the theme of his research, but also a working plan as to how he should carry it out. Now what do you have to say to that?

A. Basically I can say regarding this that the way by which a scientific goal is to be achieved is usually the most difficult aspect of the whole problem. That is to say, it is precisely this way to the goal that has to be found. Consequently, you are completely misunderstanding research as a whole if you believe that you could prescribe to a research worker ahead of time just how he is to reach his conclusions. At the very moment you can simply tell him what problem he is to attack and what his final goal is to be, but how he achieves this goal that is precisely what his task consists of. If I simply have to tell a man that he should carry out such and such experiments on a thousand Guinea pigs or a thousand dogs then I can just as well get a technical assistant. I don't need a research man for that. So it was that research assignments contained only the theme of the research and usually approval for certain financial support for the research and, from 1943 on, dates were set for brief reports on the progress of the work. These reports were treated in a very

generous fashion not only by the Medical Inspectorate but by the research men themselves. It could be relied on that when the research worker had achieved some positive goal he would himself send in the report. Moreover, we weren't trying to increase the scope of the paper war, but to broaden the basis of the research as a whole, and that is not done by administrative orders. The final reports on the research assignments were usually turned in in the form of reprints from various scientific publications or they were turned in in the form of manuscripts for such publications.

Q. Now, a question about the reports, witness. You spoke of interim reports which were to be submitted at specific regular dates. What did these reports contain? To be specific, did the research man describe exactly what he had done or what he intended to do or just what did he put down in this interim report?

A. First, the interim reports had to give some accounting for how the money had been spent that had been granted for this research and any one who had enough scientific experience or knowledge could see from the way the money had been spent what had been worked on. The interim reports on the course of the scientific work were limited mainly to say that "work is being carried on in the direction it was being carried on before. Some results have been achieved but they do not yet suffice for a final decision, consequently it is requested that this research assignment be extended for another year and that sufficient funds for this extension be made available." It is quite easy to understand from a psychological point of view why there was not extensive or detailed reports in these interim reports. First of all, no research man likes to show his hand before the work is finally done, and, secondly, every serious research worker only makes his results public when the program is concluded and when he wants to get his credit.

Q. And, as you said, the final reports were submitted in the form of

scientific publications which were intended to be or had already been made public in scientific periodicals?

A. That was the customary way in which it was done.

Q. The next question, witness. During the war what was the policy on the secrecy of these research assignments?

A. As little as possible was to be kept secret. Only matters which would allow persons to derive conclusions of military or technical nature. During my activities at the Aero Medical Center in Heidelberg I again had opportunity to see the communications from the Chief of the Medical Inspectorate in the field of aviation medicine. Among the twenty-five research reports there were only four or five, at the most, that were indicated as secret. In addition, there are the eight or nine volumes of the periodical "Aviation Medicine" which was printed and distributed perfectly publicly and openly. Both Professors Hippke and Schroeder were of the view that the results of the medical research should be made accessible to the public in the home country and thus be made public even to the population in foreign countries, even while the war was still on, even in cases where Dr. Anthony as referent or later, myself, as referent, thought that we should disagree with this and, without being critical in any way, let me say that according to a communication in the English periodical "Lancet" of 13 April 1946 the English Government ordered that, from 1943 until a considerable period after the end of the war, it was forbidden to publish anything about the new drug penicillin.

Q. Now, witness, in the research assignments according to the prosecution one fact plays a very decisive role. That is the famous file note 55. You know that the prosecution charges you with all the documents carried under the file note 55, and which carried the various referat numbers for the referats in the Medical Inspectorate. Let me point out that this number 55 has thrown the prosecution off in a few points. At any rate, witness, I should like to ask you about

this decisive point. According to the prosecution's charge, all research assignments, under number 55, did not go only through the referat for aviation medicine but were handled there as to their contents. Now, can you tell me something about that?

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A First let me point out that up to May 1944 I had nothing to do with the working on the research assignments as a whole. This belonged within the specialized field of the Referent, namely, Professor Anthony. But Professor Anthony like myself later concerned himself only with the assignments of a purely aviation medical character. Despite this fact all of the research assignments went through there for the following reason: in the Luftwaffe we had the so-called Wehrmacht Unification Plan. That is to say, every field was set down under a rubric. The file number 55 was the one used by the whole field of research. Independently of whether the aviation medicine or aviation technical research or some other field was involved. Let me point out in this connection Ruff's Document No. 5 in Ruff's document book page 16. This is a question of finding a research professorship for Dr. Ruff and although this is a question involving only the personnel department this letter, because it concerned the research professorship is carried under File No. 55. Had this letter come to the medical Inspectorate, for example, it would automatically have come through the Referent Aviation Medicine, as not only a different Referat but only and wholly a different department was competent for personnel matters on research matters and were carried under this same File No. 55.

Since in the Medical Inspectorate of the Luftwaffe 90 or 95% of all research assignments concern aviation medicine and only a very small part concerning the other fields all documents with this file number simply in order to keep things straightened out in the filing system were sent through our department. This had the great advantage when it came to working on these assignments that if any research assignments was being looked for the Filing Department knew very well that the File No. 55 referred only to matters that went through the Referat for Aviation Medicine and were to be found in that Referat. Another reason was the following: particularly during the war, many offices issued directives regarding distribution of priorities on the use of funds on the employment of personnel for research purposes. Now, it is clear that the

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Referent who handles 90% of all research assignments or more, is better acquainted with these various directives from other offices, than a referent who has to work on only one or two research assignments and perhaps only once or twice in a year has nothing to do with these matters at all. In the list of the 97 research assignments, Document No-934, Exhibit 458 of 97 research assignments 8 are not of aviation medical character. For this reason also, namely, for these purely administrative matters of seeing that these directives are being obeyed-- for this reason also all of these file numbers 55 matters went to the Referat for Aviation Medicine. There was a third reason, namely, the following: all of these who received research assignments were, as I said before, Professors or Scientists of long standing. The Referat Aviation Medicine was from 1939 to 1944 always administered by active professors and there is a different point of view of administrative and organizational correspondence and if efforts were to be made to preserve the style of academic circles and so it was that the Referent in this department was concerned with these research assignments and this continued event after 1944 when I became the Referent even though I was not at that time a professor.

DR. TIPP: Mr. President, in this connection I had intended to put on a number of documents -- documents regarding the entire research problem. That is to say, the assignment of this research; the form, contents, the supervision, etc. Unfortunately I received these documents so late that they are in Becker-Freysing Document Book 5 and one if then is in Book 4 and so far as I am informed the Tribunal has not yet received these volumes. However, the Defense Information Center has told me that I may have one translation of one of these affidavits and may receive it during recess. If that is the case I should like to put it in then. It is an affidavit by Professor Dr. Schaefer. Otherwise I ask permission to put in the documents later as soon as they have been translated.

THE PRESIDENT: The documents may be offered when they are available to counsel. I suggest that this examination be somewhat expedited. I think we have had very long explanation but doubtless have their importance to the defense counsel but I think that this examination could be expedited somewhat to advantage.

DR. TIPP: Mr. President, I have just concluded the treatment of this theme and I come now to the discussion of the individual counts in the indictment and I should like to ask that perhaps the noon recess be taken now.

THE PRESIDENT: The Tribunal will be in recess until 1:30.

(A recess was taken until 1330 o'clock)

AFTERNOON SESSION
(The Tribunal reconvened at 1330 hours, 20 May 1947.)

THE MARSHAL: The Tribunal is again in session.

DR. GAWLIK (Counsel for the Defendant Hoven): Mr. President,
I ask you to excuse the Defendant Hoven from tomorrow morning's
and tomorrow afternoon's session in order to prepare his defense.

MR. HARDY: I have no comment in this regard, your Honor, but while
the defense counsel for Hoven is here I have a question to put to him
regarding the case of the Defendant Hoven. To date we have had two
witnesses appear on behalf of Hoven. The prosecution is interested
in whether or not the defense counsel intends to call other witnesses on
behalf of the Defendant Hoven.

DR. GAWLIK: Three other witnesses have been approved, the witnesses
Rickard, Dorn, and Scheuble. I have received an affidavit from the
witness Rickard which I am going to submit. Whether I shall call
the witnesses Dorn and Scheuble to the witness stand, or whether I
would prefer to get affidavits from them, I cannot say today, since
I have to discuss that question with the witnesses as soon as they
arrive in Nuremberg.

THE PRESIDENT: Counsel, as soon as you have discussed this matter
with the witnesses, will you advise counsel for the prosecution as
to whether they will be put on the stand or you will use an affidavit?

DR. GAWLIK: Yes, Mr. President.

THE PRESIDENT: Counsel for the Defendant Hoven having requested
that Defendant Hoven be excused from attendance before the Tribunal
tomorrow in order that his counsel may consult with him concerning
his defense, the request is granted. The Defendant Hoven will be
excused from attendance before the Tribunal tomorrow.

Counsel may proceed with the examination of the witness.

HERMANN BECKER-FREYSENG - Resumed

DIRECT EXAMINATION (Continued)

DR. TIPP (Counsel for the Defendant Becker-Freyseng): Mr. President,

with reference to the complex which I completed this morning concerning the research assignments and their treatment, I said that I was going to submit a document from which I was going to quote. As I already said, it is contained in Document Book No. 4 which is not yet available to the Tribunal; however, I have just received the translation of that document from the Language Division, and the necessary amount of copies have been handed to the Secretary-General, with the request to hand them to the Tribunal. The interpreters as well as Mr. Hardy have also received copies. If it please the Tribunal, I should like to quote a few passages from this document.

(Document handed to the Tribunal.)

THE PRESIDENT: The Tribunal has not yet received the copies of this document in the German language, but I assume they will be provided later.

Counsel may proceed.

DR. TIPP: This is Becker-Freysong Document NO 64, contained in Document Book 4 on page 340. I offer it as Becker-Freysong Exhibit No. 7. It is an affidavit by Professor Dr. Hans Schaefer, of Kerckhoff Institute, Bad Nauheim, dated 24 April 1947. After the customary introduction he says, under figure 1.

1) "I, Prof. Dr. Schaefer, physiologist, department director of the William G. Kerckhoff Institute at Bad Nauheim since 1 January 1940, received in 1940 or 1941 from the Medical Inspectorate of the Luftwaffe a research assignment on the subject of "research on the electrical by-effects of anoxemia and hyper-aeration". With reference to this assignment, two intermediate reports as well as 3 publications were issued. It was not yet completed by the end of the war.

"2) The subject was selected and proposed by me. I had previously worked on similar subjects, although not on the effects of anoxia. The subject represents part of my special field i.e. the combination of electro-physiology and circulatory research, on which field I am still working today."

Under figure 3 the witness describes why he asked for this assignment — in order to obtain priorities and deferments and thus to be able to carry on his scientific activities.

DR. TIPP (Continuing): I quote from figure 4 on the 2nd page:

"I did not subject myself to any supervision by the Medical Inspectorate by the assignment of the research commission and its acceptance. The research assignment gave me absolute latitude regarding the method of execution and the choice of the means of research. I was only obliged to give reports on schedule and to account for the money spent.

"5) There never was a check-up by the Medical Inspectorate, nor were there any requests. At one occasion, however, Prof. Anthony, the official in charge, paid me a private visit and was shown through the institute by me."

I shall skip figures 6 and 7; I should like to ask the Tribunal to take notice of them.

I quote again from paragraph 8:

"No instructions regarding the execution of the commission were issued, and had they been, I should in any case have rejected them."

The rest of this paragraph is not relevant.

In figure 9 he says, and I quote:

"I should not on principle have permitted any kind of control of our scientific results, even by experts. If controls are desired they are only possible in the form of new experiments by a second scientist."

I shall dispense with reading the rest of the document. There follows the signature and the customary certification by a notary.

This concludes the question of research assignments for the time being, and I now turn to the individual counts of the indictment.

Q. Witness, you have heard the desire of the Tribunal that the proceedings be shortened; for my part I shall strike out part of the questions which I intended to put to you, and I should like to ask you to limit your replies to what is absolutely necessary.

Witness, the Prosecution charges you with special responsibility for and participation in high-altitude and cold experiments. We know on the basis of numerous documents and the testimony of witnesses that in these groups of experiments Dr. Rascher played a very special role; for that reason I should like to ask you first about your relationship to Dr. Rascher. Tell me, when did you, for the first time, learn of a Dr. Rascher who was a Captain in the Medical Corps (Stabsarzt) of the Luftwaffe?

A. I heard about Dr. Rascher for the first time at about the beginning of June 1942.

Q. And on what occasion was that?

A. At the beginning of June, Professor Anthony was on leave and as far as I remember he had to go on his vacation very quickly because the Chief Physician of his clinic had suddenly fallen ill. A few days later the department chief, Generalarzt (Martius?) sent some files back to me which Professor Anthony had given to him before his departure. Among these files there were the first proposals for the cold meeting which was planned for the fall of 1942, including the first proposals about the participants and the intended lectures. There were a number of changes made by the department chief on this list, and among them was an added sentence saying that a Dr. Rascher was to receive an invitation. This name, at that time, meant nothing to me, because I was neither working in the sphere of cold questions, nor did I have anything to do with the plans for the meeting. For that reason, I did not attach

any particular importance to what the department chief said. About one or two weeks later, at any rate while Professor Anthony was still on vacation, my department chief ordered me to go to the Medical Inspector, Professor Hippke, with part of these files, the papers pertaining to the proposed meeting. At Professor Hippke's office there was a Captain of the Medical Corps (Stabsarzt) of the Luftwaffe; I found out from his conversation with Hippke that he was Rascher. Professor Hippke wanted to speak to Anthony and asked me for the files and what information I could give him. This is the same conference of which Professor Hippke spoke when he was examined in the trial of Field Marshal Milch.

Q. Since this conference was mainly concerned with cold questions as you say, we shall come back to it when we are discussing that problem. I do want to ask you now: What impression did Dr. Rascher make on you when you saw him for the first time?

A. On the whole, Rascher made quite a good impression on me at that time. I must add that I saw Rascher speaking to my higher superior who had received him without a department chief; Rascher spoke like an educated man; he was courteous, and seemed to be well versed in the fields which he discussed with Hippke.

Q. Would you please shortly tell us in a few words, witness, what this conversation was about?

A. When I entered the conversation Rascher was just informing Hippke that the Reichsfuehrer SS Himmler had ordered him to carry out cold experiments, and he asked for the support of a sea emergency expert from the Luftwaffe for that purpose.

Q. Of course, it became evident from the conversation that they were to be experiments on human beings?

A. Yes, that became evident.

Q. But, did Rascher say that he was going to use concentration camp inmates as experimental subjects, or how did he characterize the experimental subjects?

A. Rascher very clearly spoke about prisoners or convicted criminals who were at our disposal, on the basis of special permission given by Hitler and Himmler, if I remember correctly, and who had to volunteer. It was my impression at that time that we were only concerned with a very limited number of people and certain very specific cases.

Q. Then Rascher spoke of criminals who were to become experimental subjects?

A. Yes.

Q. Did he say anything about the type of criminals?

A. No, not in detail. It was very clear, however, that they were criminals. I remember that he mentioned that these people were to have the opportunity of rehabilitating themselves in some way by virtue of their participation in these experiments. He furthermore said that for that reason not every criminal who volunteered would be permitted to participate. I remember very clearly an example where a sexual criminal who had been convicted of a number of offenses against your children, had volunteered but was not permitted to participate in these experiments, where he would have had an opportunity to rehabilitate himself.

Q. How did this conversation end, witness?

A. I can say nothing about that. I was only called to attend the conference after it has begun, and I had to leave the conference before it was finished.

Q. In that case, you do not know what actually was agreed upon, do you?

A. What Rascher and Hippke discussed finally, I do not know.

Q. Now, witness, on this occasion you saw Dr. Rascher for

the first time, and you heard for the first time that experiments were to be performed or could be performed on criminals in Germany; is that right?

A Yes.

Q As you told us yesterday, you had informed yourself to a great extent about the experiments on human beings from the theoretical point of view and you had performed experiments on yourself; now tell us, what impression did you have when you heard that outsiders, criminals, were to be used for these experiments?

A This announcement made a big impression on me. I had had sufficient experience with experiments on human beings in general and self-experiments in particular. Up to that point I had known about experiments on prisoners only from literature. I knew about them only as a result of my preparatory work for the State examination, when a few famous cases had to be known for bacteriology or surgery. These were Strong's famous plague experiments in Manila, Arning's leprosy experiment; and I knew of other examples from "Microbe Hunters" by Paul de Kruif, which I had read like every other German medical student.

Q After having already concerned yourself with that problem in theory, beforehand, may I now ask you, witness, whether you considered these experiments which were being planned legal experiments?

A Yes, I considered them to be just as legal as all the others of which I already knew at that time. I knew that no objection had been raised to their legality or admissibility. In addition I was told that the criminals were to volunteer. I knew that a special examination was necessary, and that special permission would be given. Furthermore, I did not hear about this matter in some dark corner where a conspiracy was going on, but I heard about it in the office of my

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supreme superior, about whom I had to assume that he had known Rascher from before, and that he had already dealt with that question for some time.

Q Well, witness, that was your attitude about this plan at that time, just as you have outlined it to us now. Witness, how do you judge the question of legality today?

A In principle, just as then: today I have much more proof and many more examples for experiments on criminals, which were carried out in an absolutely legal and admissible way. I can not imagine that the criminals of other countries would be idealists and would out of pure idealism volunteer for these experiments in large numbers, while German criminals would not volunteer for such purposes. I don't actually believe that German criminals are prompted by idealism but because they expect certain improvements in their condition therefrom, and I think the same holds true in other countries. In order to prove that, I may quote a passage from the book "An American Doctor's Odyssey" by Victor Heiser, from page 149 of the German authorized translation of the year 1946. It says there, and I quote: "As soon as a remedy for some disease had been suggested, the Institute established whether it was effective. The experiments were carried out on inmates of Bilibid, who earned a little money and, if the experiments were dangerous, could achieve a mitigation of their sentence." The institute is the Worcester Institute in Manila.

Similar proof from modern times can be found, for example, in the Journal of the American Medical Association, 27 April 1946, volume 130, page 1256. I quote: Under the heading, "Prisoners Used as Guinea Pigs for Medical Experiments," there follows the report.

Similar thereto is a report that experiments were carried out on some 77 inmates in a prison with hashish or marijuana. Mention has already been made here of a number of experiments on conscientious objectors, so I do not have to go into all that.

.. All these examples, which do not originate from antiquity but from the last few years, seem to show very clearly that there is a possibility of finding enough volunteers among penitentiary inmates for such experiments, that there are always enough physicians who are ready to perform such experiments, and that apparently no one in the world raises any objections to such experiments.

Q Let us now go back, witness, to Dr. Rascher; when did you see Dr. Rascher for the second time?

.. I saw Rascher for the second time on the occasion of the Nurnberg cold meeting in October 1942.

Q On what occasion?

.. On the occasion of the famous cold meeting here in Nurnberg.

Q Rascher, as can be seen from the documents, made some discussion remarks on the lecture of Professor Holzlochner. Without going into detail, I want to ask you whether you gained the impression from Rascher's remarks that what Rascher had been doing in Dachau was in any way criminal?

.. At that time it did not become evident to me from what Rascher said that what he had been doing in collaboration with Holzlochner was outside the law or outside the sphere of admissibility.

Q But we do know, witness, that these discussion remarks made by Rascher during the Nurnberg cold meeting raised an occasion for some discussion among the participants in that meeting. How do you explain these discussions, part of which were rejecting Rascher's procedure?

.. One really can not speak of any discussion in the true sense of the word - a discussion at the meeting. I think there was only a purely private discussion after the lecture.

Q That's what I mean.

A. If I can judge from my own case, the discussions did not refer to what Rascher said, but to the manner in which he said it. The manner in which he spoke about his experiments was somewhat sloppy, and not quite suited the serious nature of the lecture.

Q. You said, witness, that you met Rascher in June in Berlin in Professor Hippke's office and that you saw him again during the Nurnberg cold meeting?

A. Yes.

Q. Before this Nurnberg meeting, did any one warn you against Dr. Rascher?

A. No.

Q. Now let us turn to another problem, witness, in connection with Dr. Rascher. We know from what Professor Meltz testified here and also from a number of documents, which were submitted by the Prosecution, that Dr. Rascher wanted to qualify as a lecturer by submitting a thesis in the field of aviation medicine. Rascher was in addition a medical officer of the Luftwaffe, and it could be assumed that you, or the Medical Inspectorate, would have learned something about these plans of Rascher and as a result would also have found out what Rascher actually did in order to execute these plans. Witness, may I ask you whether you know anything about Rascher's intention to qualify as a lecturer?

A. No, I know nothing about that.

Q. I do not want to discuss all these documents with you, witness, which were submitted by the Prosecution in that connection; they show no connection with the Luftwaffe, apart from two exceptions. These two exceptions which I just mentioned are in connection with aviation medical research, and for that reason I must ask you about them.

The first document I should like you to look at can be found in Document Book 2. This is document NO-290, Exhibit 121, which can be found on page 166 in the German book and 156 in the English Document Book. I beg your pardon, this is in Document Book 3. It is a letter signed by Mr. Sievers, bearing the letterhead of the "Ahnenerbe" Society, with the date 21 March 1944. It is addressed to Doctor Rudolf Brandt, on the personal staff of the Reichsfuehrer SS. I should like to discuss only one sentence in this document with you; it is the last sentence on the first page, and I quote:

"The director of the Institute for Aviation Medicine in Frankfurt, Oberstarzt Professor Dr. von Diringshofen, who had already consented to take part in the presentation of the thesis in Marburg, would most certainly have been induced to favor admission to the faculty in Frankfurt."

Oberstarzt Professor von Diringshofen was a medical officer of the Luftwaffe, and in addition an Institute for Aviation Medicine is mentioned here. May I ask you, witness, do you know von Diringshofen, and do you know this Institute for Aviation Medicine of which Mr. Sievers is speaking here?

A. I know Professor von Diringshofen, but there was never an Institute for Aviation Medicine in Frankfurt. Professor von Diringshofen was the head of an institute for mechanical influences on the surroundings. This institute was founded by the city of Frankfurt on the Main and had nothing whatever to do with the Luftwaffe.

Q. In the same connection, witness, would you please look at another document in the same document book: this is Document NO-230, Exhibit 115, on page 153 of the German and 142 of the English document book. This is the course of Rascher's medical training, which he himself has written

under the date of 17 May 1943; on the last page of this document, page 4, you will find the following passage, and I quote:

"After the conclusion of this research work", of which he has previously been speaking, "I intend, as agreed upon, to return to the University Institute for Aviation Medicine and Hygiene (Professor Dr. Pfannenstiel, Marburg) for my further scientific training."

Since aviation medicine matters were under the Medical Inspectorate, witness, I may ask you whether you knew of this institute, and whether through this institute you knew about Rascher's plans?

A. I can say that there was never an institute for aviation medicine at Marburg; and that I knew nothing of Rascher's plans in this connection.

Mr. President, in that connection I offer as an exhibit Becker-Freyseng Document No. 21 on page 89 of Document Book I. This will become Exhibit No. 8. This is the affidavit....

THE PRESIDENT: Counsel, you don't mean Document Book No. 1, do you?

DR. TITT: I beg your pardon, Mr. President, Document Book No. 2.

THE PRESIDENT: What exhibit number do you assign to that?

DR. TITT: Exhibit No. 8. I may quote briefly; it is on page 89.

It is an affidavit of Professor Dr. med. Heinz von Diringshofen, Frankfurt on the Main, 7 February 1947. After the customary introduction I quote Figure I.

"The Institute established by me with the assistance of the city of Frankfurt/Main in 1942, and which I directed, was called:

Medical Research Institute for Mechanical Influences. This Institute was neither attached to the Inspectorate for Medical Affairs of the Luftwaffe, nor did it work under its orders."

Under paragraph 2 the witness describes how this quotation which I have just put to the witness originated, namely that Professor Dr. Bach asked the witness von Diringshofen whether he would be prepared to give a scientific opinion on a thesis by the Luftwaffe Stabsarzt Dr. Mascher, written for the purpose of qualifying as a lecturer. Professor von Diringshofen further states that he declared himself ready to do so but that he heard nothing further about that plan.

I quote again from page 2 of the document, the last paragraph:

"I was never requested by the Inspectorate of the Luftwaffe Medical Service to cooperate with Dr. Siegmund Mascher in his habilitation paper, nor did I inform the Inspectorate as to the above-mentioned discussion with Professor Bach."

There follows the signature and the customary certification.

As the next document in that connection I should like to offer Becker-Freysong Document No. 22, which can be found on page 91 of the same document book. This will become Exhibit No. 9. It is an official certificate of the administrative director of Phillips University of Marburg, dated 10 January 1947; I should like to quote the first paragraph:

"An Institute for Aviation Medicine and Hygiene never existed at Phillips University in Marburg not even during the years 1941 to 1943."

I shall now quote the last paragraph:

"The above facts are taken from the files of the council (Kuratorium) of Phillips University.

Then follows the signature, the stamp and certification.

Witness, when you saw Rascher in Hippke's office and at the Nuremberg cold meeting, he was a Stabsarzt in the Luftwaffe?

A. Yes.

Q. Did you know anything about his membership in the SS, about which much mention has been made here?

A. No, I knew nothing in particular about that. I only knew, and I heard it during Hippke's conversation with Rascher, that Rascher was speaking about his good relations with Heinrich Himmler.

Q. How was it, witness, that a man who obviously had close connections with the Reichsfuehrer SS could have been a physician in the Luftwaffe and was not in the Waffen SS?

A. I don't know about Rascher's special case, but there were a number of similar cases. Before the war the Waffen SS had not yet existed as an independent Wehrmacht branch, so that a number of reserve officers who belonged to the General SS had performed their reserve service in other branches, with the Army, Navy, or Luftwaffe. When the war started these people were drafted into their respective Wehrmacht branches without their civilian membership in any part formation being taken into consideration.

Q. As we know, Dr. Rascher concerned himself with two subjects, the subject of altitude and the subject of cold. Both of these subjects were problems of aviation medicine?

A. Yes.

Q. That it can be assumed, and the Prosecution obviously does assume, that negotiations and correspondence carried on with the Luftwaffe -- in particular the Medical Inspectorate -- about these subjects must have gone via the Referat for Aviation Medicine?

A. That could be assumed, yes, but from all of the documents of the Rascher complex I have found only two documents which even hint at any participation of the Referat, whereas all other documents show

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A. That could be assumed, yes, but from all of the documents of the Rascher complex I have found only two documents which even hint at any participation of the Referat, whereas all other documents show

clearly that the Referat had nothing at all to do with it.

Q. And how do you explain that, witness? What I mean is, how do you explain that the majority of the correspondence with the Medical Inspectorate did not go over the Referat?

A. Well, this can no doubt partly be explained by the fact that the Medical Inspector, Prof. Hippke, very frequently dealt with such matters without the aid of his Referents. In addition, I think that this was probably because Rascher only dealt with the highest authorities personally.

Q. Now, witness, in this connection I have to discuss several documents with you from which the Prosecution will probably infer a connection between Rascher and you. The first document in that connection can be found in Document Book No. 2, page 137 of the German and 113 in the English document book; it is Document NO-226, Prosecution Exhibit No. 55. It is a letter from the Ahnenorbe, again signed by Mr. Sievers, and it is dated 21 October 1942, addressed to SS-Obersturmfuehrer Dr. Brandt, in the personal staff of the Reichsfuehrer SS. Under the same document number there is attached the draft of a letter to Field Marshal Milch, and this supplement prompts me to discuss this document with you. In the original, it is said, that the high-altitude experiments are to be continued and Sievers writes that the low-pressure chamber will be required, and in the attached supplement to Field Marshal Milch, there is the following:

"In addition to the report which I had submitted to me here by Stabsarzt Dr. Rascher and Dr. Jomburg concerning the carrying out of high-altitude experiments, I had desired that a similar report be submitted to you, too. Although it was not possible for you to participate in the conference of 11 September 1942 and to convince yourself of the results, up to now, of these experiments, I beg you once more today to put at our disposal the low-pressure chamber, through the Aviation Experimental Institute. As the experiments are to be extended to greater altitudes, this time differential pumps would also have to be supplied."

Witness, we are here concerned with the low-pressure chamber, and you said that you had something to do with the administration of the ~~low-pressure chambers~~ in the Medical Inspectorate. Can you tell me whether you received knowledge of this letter and whether the Referat for Aviation Medicine had anything to do with this matter?

A I had neither seen that letter before nor was the Referat for Aviation Medicine ever concerned with that matter. That can clearly be seen from two things in this letter. The assumption that the German Research Institute for Aviation Medicine should on its own initiative place a low-pressure chamber at their disposal is absolutely erroneous. If this letter had been previously discussed with the Referat for Aviation Medicine, the writer would have known that only the Medical Inspectorate of the Luftwaffe would have furnished any such chamber. In addition, if I had been asked about this point I would have told the person concerned that I know nothing of the so-called differential pumps and that none of the low-pressure chambers in the entire Luftwaffe were equipped with them.

Q Now, witness, we come to another document in this connection. And this is again a matter of aviation medicine problems which were dealt with by Dr. Rascher - aviation medicine research. In that connection I should like to discuss with you the Prosecution Document 1612 PS, Exhibit 79. This can be found in Document Book II on page 136 of the German, and page 122 of the English Document Book. It is a letter, "the Reichsfuehrer-SS", and signed "by order, Brandt, SS Obersturmbannfuehrer." It is addressed to a number of persons whom we shall discuss later.

This is a letter of the Reichsfuehrer Heinrich Himmler, apparently, dated 13 December 1942, in which Rascher, who at that time was a Stabsarzt in the Luftwaffe, is entrusted with the execution of realistic low-pressure chamber experiments. Furthermore, he is entrusted with experiments for re-warming after freezing. The other points are not important in this connection.

Since we are clearly here concerned with aviation medical research questions, witness, the conclusion is likely that the Referat for Aviation Medicine or the Medical Inspectorate had gained knowledge of this assignment which was given to Rascher or in which Rascher was included. In that connection may I ask you whether you learned anything about this assignment given to Mr. Rascher?

A No, I found out nothing about that assignment.

Q As you say, no copy of this letter was acknowledged by the Referat of Aviation Medicine.

A No, that can clearly be seen from the distribution list and I think it is a matter of argument to point to various other matters which clearly show a personal nature between Heinrich Himmler and Rascher.

Q Now, witness, you are saying that the Referat For Aviation Medicine had nothing to do with this part of Rascher's work and the Medical Inspectorate was not concerned with these matters. In that connection I must put to you a document which does not seem to tally with what you are saying and which most probably was submitted by the Prosecution

in order to prove your connection with Rascher's experiments. This is the document NO-262 of the Prosecution, Exhibit No. 108, and is in Document Book No. 2 on page 130 of the English Document Book. The letterhead "The Institute of the Medical Services of the Luftwaffe, dated 6 March 1943." It is directed to Obergruppenfuehrer Wolff, the Chief of the Personal Staff of the Reichsfuehrer-SS. This letter is signed by Mr. Hippke. As can be seen from its contents, it deals with Stabsarzt Dr. Rascher, and the prosecution may well conclude from this letter that you participated in this matter because you are the only one of the defendants who was working in the Medical Inspectorate during the time in question. Would you please tell us, witness, whether you had any knowledge of this letter and of the points contained therein?

A No, of that I knew nothing, as can be seen from the complete letterhead, moreover. "Let me read the letterhead once again to show that - "The Inspector of the Medical Services of the Luftwaffe. File note none, No. 2299/43, secret, and the abbreviation for the word Inspector". The abbreviation INSP for Inspector means that this is a letter that the Inspector has worked on personally, because if a Referat had worked on this letter there would have been an appropriate file number to show that. Moreover, Professor Hippke speaks so unmistakably of himself in this letter that it is perfectly clear that he had personally worked on everything mentioned in this letter.

Q Now, witness, in connection with Dr. Rascher, a further document, also from Document Book III, page 133 in the English. This is Rascher's letter to Brandt of 14 March 1943; it is Exhibit 110. In this letter Rascher reports on a conversation that took place on 12 March with your chief at that time, Professor Hippke. The entire report concerns itself with Rascher's high-altitude and freezing work, and as you say you knew nothing about these negotiations. Can you tell me something about that please, namely that you knew nothing of these negotiations of Rascher's?

A I don't know about them either. Transfers were a matter that

concerned the first department, the Personnel Referat, and consequently did not touch our Referat; but from Rascher's report it can be seen that the Personnel Referat did not participate in this, because Rascher certainly wouldn't have failed in this letter to make certain remarks about the Personnel Referent, had he been involved. Moreover, I happily remember at this time I was not in Berlin, but in the first half of March 1943 I had my annual vacation which I spent in the Alps.

Q In other words, witness, of these entire negotiations you knew nothing?

A Correct.

Q And the reason was mainly because in the first half of March you were not in Berlin. Now, Mr. President, let me put in Becker-Freyseng Document 23, also from Document Book Becker-Freyseng No. II, page 92 which I shall give Exhibit No. 10. This is an affidavit by Dr. med. Adolf Frank of Goettingen, dated 31 March 1947. The statement is very brief. After the formalities he says:

"Early in March 1943, between the 1 and 15 March 1943, I took part in the course on adaptability to high altitudes conducted by Dr. Benzinger in Kitzbuehl. I definitely remember that Dr. Becker-Freyseng and his wife also took part in this course. As far as I can remember after 4 years, the course lasted from 3 to 15 March 1943."

And let me please bring to your attention again the discussion between Rascher and Hippke took place 12 March 1943. Witness, you say that with Dr. Rascher you simply had those two aforementioned contacts, the discussion between Rascher and Hippke in July 1942 and Rascher's remarks in discussing his freezing experiments at the freezing conference. Is that correct?

A Yes.

Q Witness, did you have official relations of any sort to the SS aside from Dr. Rascher?

A No.

Q The general facts regarding Dr. Rascher have not been vent-

ilated, witness. However, I should like to bring up another question that is important in the whole question of experiments, to wit, those questions that concern concentration camps experiments. Let me ask first of all, did you ever visit concentration camps before May 1944?

A No, nor did I visit one subsequently.

Q As you know, witness, you were in the central office of the Luftwaffe Medical Service as Assistant Referent and then as Referent. In this position you undoubtedly had occasion to speak with a large number of people, Luftwaffe officers, research men, civilians, etc. On this occasion and in these discussions did you find out nothing more precise about conditions such as prevailed at that time in concentration camps? What, in brief, did you know at that time about concentration camps?

A Dr. Horn and Dr. Hielscher have already spoken about this subject from the witness stand here. Had they not done so I should not answer that question here, not feeling it to be necessary. Of course, during the war I did discuss concentration camps with various people. I knew of Dachau and Oranienburg personally. That is to say, I knew the fact that there existed concentration camps there. Details regarding these concentration camps I knew as little as everybody else. I recall that I spoke to a number of people during the war who before the war in one way or another had inspected concentration camps. And the picture that these persons presented to us was one, one might say, of a large-scale prison in camp form. If Dr. Horn had not stated here of his own knowledge as a political prisoner in a concentration camp how such visits and inspections were carried out, I should have had to assume that all these people - there were 2, 3, 4 of them who knew anything about this - I should have had to say that these people were lying when they spoke to me, but now I assume they did tell the truth as to what they actually had seen. It has been said here several times that it was possible to learn from foreign radio stations what conditions were. I should like to say that during the war I was a soldier, I had taken my

oath of allegiance to the flag, and I kept this oath. I had no connections with any resistance movement or any such circles. I heard a few persons who had heard the soldier's station Calais, the propaganda of which struck me as just as credible, or incredible, as our own propaganda; and I should like to say that in conclusion the picture that I had of concentration camps corresponded with the picture I had received from other sources, one from a school comrade who was a member of the Communist Party and was put in a concentration camp, namely Dachau, for a few years shortly after 1933, and after 1936 or 1937 was set free. He got another job and was inducted into the Army at the beginning of the War. Since he now again occupies a position in a political party I shall not state his name. The second description I received during the war was from Beiglboeck, regarding which he may speak here himself and from which it was not possible to say what actually went on behind the scenes, which no one could see who was not part of the staff of the concentration camp itself.

Q. You say, witness, that your impression of concentration camps was that of a large-scale prison in camp form, is that so?

A. That was what all of us imagined under the term "concentration camps".

Q. Were you able to see in any way who the inmates of concentration camps were?

A. I knew no details about this, of course, but I had heard that both political and criminal inmates were to be found in concentration camps, and I also knew that during the war those who were considered unworthy to bear arms were also put in concentration camps.

Q. You say those who were considered unworthy to bear arms, witness, Now, you are a doctor, and before this court there has been a great deal said of a legal nature by doctors. Unfortunately, a great deal of it was wrong. Now let me ask you whence you know what you seem to know and what you understand by the term "unworthy to bear arms"?

A. I have my knowledge from my training at an air war school, in an officers' training course, specifically from the study of military discipline and military disciplinary law; at that time, I learned or heard that those members of the Wehrmacht who were condemned by a court martial for criminal actions while they were in the service were sentenced to penitentiaries and, in addition, were designated as "unworthy to bear arms" and, for the duration of the war, were put in a concentration camp, and that these persons served their sentence in a penitentiary only after the conclusion of the war.

Q. Very well, witness.

And now from a document one more question on this problem of the inmates of concentration camps. A document was put in by the prosecution. It is Document Book #2 on page 132 of the German, 118 of the English. It is document 1617 PS, Prosecution Exhibit 77, a letter from the Reichsfuehrer SS to Field Marshal Milch. I want to put two words out of this document to you, from the second paragraph. The

Reichsfuehrer SS writes here that he takes personal responsibility for the high altitude experiments and specifically takes responsibility for using asocial individuals and criminals who deserve to die from concentration camps for these experiments. Now, witness, did you ever heard in connection with these experiments these words "asocial individuals who deserve to die"?

A. No, and even today I don't quite know what those terms are supposed to mean.

Q. To sum up then, you knew only of political prisoners and of legally convicted criminals who were inmates of concentration camps, and also those considered unworthy to bear arms, who had also been legally convicted?

A. Yes.

Q. The question of the voluntary consent of the experimental subjects of which Dr. Rascher spoke at that time has already been discussed by you, witness, and you have told us that you believed the fact that these persons could and would volunteer. Is that not what you testified?

A. I believed that and saw no reason not to believe it.

Q. I may recall to the Tribunal at this time that the witness Weff for the Prosecution corroborated the fact that the experimental subjects were voluntary on 18 December, 1946, page 706, 711 and 712 of the German record, 614 and 696 of the English record.

That concludes our dealings with general questions, and now I come to the next charge since we have dealt with conspiracy; to wit, your participation in the high-altitude experiments. You are accused in the indictment of participation in or special responsibility for these experiments which took place from February 1942, to May 1943, in Dachau. There is no document on hand that proves that you took an active part in these experiments, nor has the prosecution asserted that so far. Your personal responsibility, as can be seen from the general indictment,

is based on your position as Assistant Referent or Referent in the Referat Aviation Medicine. Now, let me ask you then, for the sake of clarity; were the questions of high-altitude research among those fields which you, as Assistant Referent, dealt with independently in 1941, 1942, and 1943?

A. No.

Q. These questions were treated by whom?

A. They were dealt with by Anthony so far as the Referat had anything to do with them at all.

Q. Witness, the Prosecution has put in a large number of documents all of which I should not like to discuss in detail. First of all, 1602 PS, Exhibit 4, the famous letter of Rascher of 15 May 1941, to the Reichsfuehrer SS, which is probably the indication of the beginning of this whole lamentable event. Then there is 1582 PS, Exhibit 45, also from Document Book #2, in which Dr. Brandt tells Rascher that the inmates are available for the high-altitude experiments. These letters have nothing to do with the Medical Inspectorate, consequently I should like to ask you, to keep things in order, whether you ever learned of these letters in any way at all?

A. No, and in May 1941 I didn't even belong to the Medical Inspectorate.

Q. Now, witness, there comes a letter that seems to indicate the connection of the Medical Inspectorate with the high-altitude experiments and also seems to indicate that you had some connection with them. This is Document NO 217, Exhibit 46, which is to be found in Document Book #2 page 58 of the German, and page 55 of the English. I put this document to you because the low-pressure chamber is mentioned here and because you said that you worked on the question of low-pressure chambers in the Medical Inspectorate. Rascher writes, let me quote briefly the third paragraph:

"May I also ask that you grant soon the perhaps possible permission

for carrying out the experiments (high altitude low-pressure) within the camp of Dachau itself. I forgot to mention to Hauptsturmfuehrer Paolschlein that a movable low-pressure chamber has been provided for this purpose out of the Research fund of the Reich Aviation Ministry."

In other words, Rascher asserts that a mobile low-pressure chamber was put at his disposal for these high-altitude experiments from the research fund of the Reich Aviation Air Ministry. Now, you worked on low-pressure chamber problems in the Medical Inspectorate and so I ask you, is this statement of Rascher's correct?

A. This assertion is wrong from beginning to end. First of all, there was no research fund of the Reich Aviation Ministry which could have paid for such a chamber. If they were paid for at all, the chambers were paid for by the Medical Inspectorate. Secondly, the four low-pressure chambers that the German Luftwaffe owned had been ordered before Rascher wrote his first letter to Heinrich Himmler. The last chamber was ordered on 28 April 1941. Rascher wrote his first letter to Himmler regarding this matter three weeks later; namely, on 15 May 1941. Moreover, this whole business, including the ordering of the four low-pressure chambers, lies almost half a year before I entered the Medical Inspectorate.

Q. Now, Mr. President, in order to corroborate what the witness has just said, let me put in Becker-Freyseng Document 24 which will be Becker-Freyseng Exhibit 11, on page 93 in Document Book II. This is an affidavit by the engineer, J. O. Zeuser, of 23 January 1947. Witness, first let me ask you, who is Mr. Zeuser?

A. Mr. Zeuser is the proprietor of the only firm in Germany that manufactured such low-pressure chambers.

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Let me quote briefly from this document:

"I delivered a total of 4 mobile low-pressure chambers with machine equipment to the Reich Aviation Ministry, Medical Inspectorate, Berlin.

"The first low-pressure chamber was commissioned on 1 December 1939, and delivered on 30 January 30 1940, to the German Experimental Institution for Aviation, Berlin Adlershof. The second Low-pressure chamber was commissioned (I am not quoting verbatim) on 15 June 1940 and delivered on 15 August 1940. Third and fourth low-pressure chambers were commissioned on 28 April 1941, and delivered in January 1942.

I shall return to this document later.

Q. Witness, we continue now with the question of your participation in the high-altitude experiments. When Dr. Romberg was in the witness stand I discussed with him his affidavit in which you seemed to be incriminated. This is Document No. 476, Prosecution Exhibit 40, to be found in Document Book 2, page 1. I need not quote this. Let me, however, remind you that Romberg expressed his assumption that you knew of these experiments. When I asked him about this on the stand, page 6873 of the record, Mr. Romberg stated this was an expression purely of conjecture on his part. Now, witness, had you seen the concluding report on the high-altitude experiments of which Romberg spoke?

A. I saw that report for the first time here in Court.

Q. And when did you first hear of these experiments?

A. I heard of them for the first time or that they did experiments when Rascher and Romberg read their paper and showed their moving picture before Field Marshal Milch, and read when they wanted to do that. I found out about that as

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follows: I was called up by telephone at the Referat either by Professor Kalok or his assistant, Dr. Buehl, and asked whether the Referent knew anything of his intended film showing before Field Marshal Milch. I answered that he would have my clerk get in touch with my superior personally about this matter to find out. From then on I had nothing more to do with this matter, and it has only been here in Court that I have been able to figure out what this whole thing was about.

Let me draw your attention also to the chief of staff of the Inspectorate, who had this matter brought to his attention and did attend the film.

A. Then Dr. Wuerfle, who testified here for Handloser on 19 February 1947, and whose testimony on page 3135 of the English record---

A. That is the testimony to which you just referred?

Q. Yes, it is. Now, witness, as you know, there is another document put in by the Prosecution to-wit, No. 224, page 116 of the English Document book 2, Exhibit 76. This is a report by Romberg, undated, regarding reports that were to take place on the 11th of October before field Marshal Milch. This is apparently the report that you were talking about before?

A. Yes, it must be that.

Q. In this document, witness, at the beginning it was said that this film was to be shown in the course of a discussion of the way this work was being developed. Tell me, witness, who organized these departmental discussions, the medical inspectorate or somebody else?

A. The Medical Inspectorate did not order them, because this is a discussion of technical developments and in the Air Ministry and in the Technical Department of it there

was one section that was entitled "Developmental Section". I presume that it was this section that arranged for this discussion of development, but I don't know. I never participated and therefore know nothing of it.

Q. But witness, you can see that the Technical Inspection had nothing to do with arranging and calling these discussions of Medical Development?

A. Yes, that I can say.

BY JUDGE SEBRING:

Q. Witness, you were present at the film showing?

A. No, I was not.

Q. You don't know what was shown there in the film, do you?

A. No, I do not know that.

BY DR. FRITZ:

Q. We know that Dr. Wuerfle, the Chief of Staff at that time said regarding what he himself knew about this matter; I have already quoted the passage from the record that pertains to this. Now, since you were active in the competent referat, did you discuss this whole occurrence with Dr. Wuerfle at all?

A. No, Never. I Believe Dr. Wuerfle said that here himself.

Q. I have to correct an error by the interpreter. You said, witness, with regard to the telephonic conversation that introduced this whole question, that the person who talked this up presumably Dr. Kelok, and said that he would speak with your superior, is that correct?

A. Yes, that is so.

Q. I have just been told that the interpreter translated that that you would speak with your superior?

A. No. The person with whom I was telephoning con-

cluded the conversation by saying that that settled the matter for him.

Q. And that he would get in touch with your superior and that was probably Herr Kalck. That clears that up. Now, Witness, the Document 224, a number of Medical Inspectorate doctors were mentioned who apparently were present at this film showing; Dr. Wuerfle has already been discussed by us. Dr. Wuerfle came after the showing was concluded, but according to this document Professor Kalck and Stabsarzt Bruehl, in other words, two officers of the Medical Inspectorate were present and Kalck was the consulting internist with the Medical Inspectorate of the Luftwaffe, as we know.

Q. Did you in this way hear from Kalck and Bruehl anything about this discussion or about the contents of that film?

A. No, throughout the War I did not speak with Bruehl at all. I did not even know him. Nor can I hardly recall any conversation with Professor Kalck either, nor can I recall anything about this matter.

Q. Were these two medical officers members of the Medical Inspectorate of the Luftwaffe?

A. No.

Q. What office did they belong to?

A. Kalck was the consulting internist with the Medical Inspectorate, but was not subordinate to that office, the Medical Inspectorate, that is in any rate not in the way that he was there all the time. But Kalck and Bruehl so far as I know had close connections with Field Marshall Milch and were at this discussion in that capacity.

Q. Witness, this report has been put in by the Prosecutor which is the final report of saving rescue from high altitude

and signed by Dr. Ruff, Dr. Romberg and Dr. Rascher. This is clearly a report on aviation medical problems. Was this report sent to the Medical Inspectorate in toto as Dr. Ruff has already explained here, or just what can you tell us about this?

A. On my own knowledge I can tell you nothing about it. I can only tell you what I can deduce from the documents here before me. Whether this report was sent to Hiepke, the Chief of the Medical Inspectorate, I do not know, nor do I know whether Anthony saw it. I know I did not see it. It was according to the documents here not distributed by the Medical Inspectorate, but Milch drew up the list of persons who was to receive it, and as Ruff has explained it was distributed by the German Institute for Medicine.

Q. Now, witness you say you did not see the report at that time, and to make this perfectly clear it was not in the files that you know of, 44 as Referent took over?

A. That is perfectly clear. I never saw it.

Q. Did you find out nothing at all about these experiments or when did you find out about them for the first time?

A. I already said I found out that some sort of experiments had been made which were to be discussed at this developmental institute. I found out about it through this telephone call from Kalck or his Assistant Bruehl. Regarding the results of these experiments I read something in a reprint from the publications of the German Academy for Air Aviation Research which was sent to us where a report of Dr. Ruff on saving from high altitudes was reprinted.

Q. About this Dr. Ruff spoke already on 29 April 1947, page 6620 of the English record.

That, if I understand you correctly, concludes what you knew before this trial or before the end of the war, regarding these high altitude experiments?

A. Yes.

Q. Now, there is a document here that establishes a connection between the Air Ministry on Aviation Medicine your Referat, and Rascher's experiments. This is Document No 264, page 73 of the English Document Book 2, Exhibit 60. It is headed "File Note for SS Obersturmbannführer Schnitzler". It concerns itself essentially with Dr. Veltz, but one paragraph is interesting to us. Quote:

"RLM asks Oberstabsarzt Dr. Woltz how long the experiments will last and whether it is justifiable to detail a medical officer for so long a time. RLM demands from Woltz an opinion on the experiments, which he, however, can not give unless he is fully informed about them."

Did you call him up or did somebody else call him up?

"I did not telephone him. I can only refer to what Professor Woltz said later, namely, that he had received the call from Professor Anthony."

"Now, witness, another question, namely, did the question of low pressure chambers - you have heard both Dr. Ruff and Dr. Romberg say that the low pressure chamber, when the high altitude experiments were interrupted at Dachau, was taken away from Dachau and was not returned thither. We also know that Rascher made many efforts to get the chamber sent back to Dachau. Now, since you worked on low pressure chamber problems, let me ask you what do you know from your own knowledge as to whether or not the chamber was ever returned to Dachau?"

"I know that from the Summer of 1942 on, no other Luftwaffe mobile pressure chamber was ever sent to Dachau. That is absolutely out of the question."

Q How do you have this absolute certainty?

"From the summer of 1942 on, all four low pressure chambertrains that the Luftwaffe owned were in constant use, and it is quite out of the question that the chamber should have been in Dachau even for a few days."

Dr. TIPP: Your Honors, let me state that the statement that the chamber was only once in Dachau was also made by the prosecution's witness Neff on 17 December 1946, page 667 of the English record.

"As we know from the documents, Rascher made considerable efforts to have the chamber sent back to Dachau because he

wanted to qualify as a lecturer through his work in this field. Did Rascher ever turn to you, personally, as a specialist in the employment of low pressure chambers?

.. Yes, in October 1942, at the freezing conference in Nurnberg he met me; he must have found out in some way that I was working on this low pressure chamber question and he asked me in a rather insolent manner, to have the chamber sent to Dachau for him; he said that he was going to get it anyway, because Himmler would back him up. I told Rascher that was not something I could decide, and that I would submit his wish to my departmental chief, and did so, suggesting at that same time that if such an application came from Rascher he should be turned down because, after what Rascher told me in the course of this same conversation, I did not have the feeling that Rascher experiments were in any way necessary. Above all, I asked him who his collaborators were, and he said they were things he would do alone. I know that in the course of the winter of 1942-43, such an application must have reached the Medical Inspectorate, of which, however, I did not see the original, but at the same time - I do not now recall the exact date - I was asked to state my opinion regarding the question of mobile low pressure chamber - to say whether any such chamber was available, and I did tell my chief what I thought. At about the same time Ruff had called me up and told me he had found out that Rascher intended to ask Himmler's permission to set up his own aviation medical institute, which neither Dr. Ruff nor I considered either necessary or expedient. At this time, I reported to my departmental chief and was ordered by him to tell the Zeuzen firm, which built our low pressure chambers and delivered them to us, that if any orders came from any other sources but Luftwaffe sources, he

was to turn it down at first until he had the approval of the Medical Inspectorate of the Luftwaffe. The grounds for this were that we could adopt such an attitude toward this firm, because the Medical Inspectorate of the Luftwaffe was just about this firm's only customer.

Q To prove what the witness has just said, Mr. President, let me turn to Document 24, Becker-Freysong Document No. 24, the affidavit by the engineer of the Zeuzen firm that I have put in as Exhibit No. 11. Zeuzen writes here on page 2 at the bottom:

"In winter 1941/42, I can not remember the exact date, and many times afterwards, Dr. Becker-Freysong told me that under no circumstances was I to accept orders from other departments for the delivery of low-pressure chambers unless they had been approved by the Medical Chief of the Luftwaffe. Dr. Becker-Freysong especially warned me repeatedly against making deliveries to the SS, because otherwise every single Luftwaffe order to my plant for the Medical Inspectorate would be stopped.

"In the event of any such order, I was to inform the Medical Inspectorate immediately and to tell the department placing the order that my plant was fully occupied with the execution of Luftwaffe orders and that we were even in arrears."

Witness, that concludes the problem of the high-altitude experiments. I may sum up your testimony as follows: neither in the planning or carrying out of these experiments for the rescue from high altitude did you in any way participate and only after they were concluded did you hear about these experiments and then only in the most general terms; is that correct?

.. Yes.

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THE PRESIDENT: The Tribunal will now be in recess until
9:30 o'clock tomorrow morning.

(The Tribunal adjourned until 21 May 1947 until 0930 hours.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Karl Brandt, et al, defendants, sitting at Nurnberg, Germany, on 21 May 1947, 0930, Justice Seals presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal I.

Military Tribunal I is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court room.

THE PRESIDENT: Mr. Marshal, you ascertain if the defendants are all present in court.

THE MARSHAL: May it please Your Honor, all the defendants are present with the exception of the Defendant Hoven who was excused from the Tribunal yesterday.

THE PRESIDENT: The Secretary-General will note for the record the presence of all the defendants in court save the defendant Hoven who was excused pursuant to a request by his counsel that Defendant Hoven might be excused today in order to consult with his counsel.

Counsel may proceed.

HERMANN BECKER-FREYSENG - Resumed

DIRECT EXAMINATION (Continued)

BY DR. TIPP (Counsel for the defendant Becker-Freysong):

Doctor, Becker, yesterday we closed the charge regarding high-altitude experiments and I come now to the next charge, your responsibility and participation in the freezing experiments. Here also it is not asserted by the prosecution that you are an active participant. The prosecution bases its charges mainly on your position as an assistant referent or referent in the medical inspectorate. The first question regarding this then is, from 1941, 1942 and 1943 did you deal with the problems involved in freezing research in your position as assistant referent in your referent?

.. No.

Q From a document put in by the Prosecution it can be seen that discussions of sea-distress problems were discussed. This is from Document Book No. 3, English, page 10, Exhibit 42, Document number 343. That is a letter from General Milch of the 20th of May 1942 addressed to Obergruppenfuehrer Wolff, and it is headed "Dear Wolffy!" It refers to the high-altitude experiments, saying that they are concluded, and continues, "on the other hand, the carrying out of experiments of another sort, namely, those on sea distress are necessary and preparations have already been made for them by our office." Now, under this word "office" you can understand only the SS office or, on the other hand, the competent office in the medical inspectorate. Do you know that before the 20th of May 1942 any such discussions were carried out?

A No. I did not.

Q Now, witness, you told us that you heard of Rascher's experiments for the first time during the discussion between Professor Hippke and Rascher in June of 1942. A document has been put in by the prosecution regarding this discussion. It is in Document Book 3, page 12, Document number 283, Exhibit 82. This is a letter from Dr. Rascher of 15 June 1942 and headed "Esteemed Reichsfuehrer!" In other words, this letter is addressed to Himmler. You know this document, witness. Is this the discussion to which Hippke ordered you to attend at that time?

A Since I was ordered to attend only one such discussion between Hippke and the Reichsfuehrer, this must be the one but let me make a small correction. I found out for the first time about this think not on the occasion of this discussion but from my superior, Dr. Martius.

Q Yes, thank you, you have already said that. Now, you were present at the discussion on this letter, consequently,

I may discuss a few points of this letter with you. The first paragraph concerns itself with the high-altitude experiments. Let me ask you were you present during that part of the discussion?

A. No, I was called into the discussion in the middle of it, consequently, I don't know what was discussed beforehand or how long it had been lasting.

Q. The second paragraph concerns itself with the freezing problem. Let me quote briefly: "At the same time, he asked for permission to carry out the cold and water experiments in Dachau, and asked that the following be engaged in these experiments: Professor Dr. Jarisch, Professor Dr. Holzlochner and Professor Dr. Singer. The Inspector designated the experiments as extraordinarily important, as we must count on another winter in the East."

Witness, were these points taken into consideration during the discussion, and what can you say by way of supplementation of what you said yesterday regarding this matter?

A. These points were touched on yesterday but I remember very definitely that at least when I was present it wasn't as if Hippke requested something, but it was that he was going to carry out freezing experiments and to do so he needed a sea distress specialist from the Luftwaffe. So far as the names quoted here are concerned, I remember Professor Jarisch and Holzlochner. I recall both names in connection with the sea distress discussions planned for the late fall or winter. The whole plan was already under consideration and it also had been put before Hippke as something he should deal with. Professor Singer, the Luftwaffe pathologist in Munich, is completely unknown to me in this connection, neither was he included in the plan conceived of at that time nor did he take part in the confer-

once here in Nurnberg. I do not know him personally and whether or not I even know his name at that time I don't know, but it is possible that later Hippke named him to Mascher.

Q Now, witness, you described what was said in this discussion briefly yesterday but there is one point that should be mentioned again, what problems were these experiments intended to solve?

A So far as I can still recall today the propositions that Rascher made to Hippke at that time were rather devious and not very precise. Professor Hippke clearly emphasized two specific problems, one was the testing of the foam suit that Holzloehner had developed and the other was the problem of the so-called rapid rewarming.

Q In that part of the discussion when you were present, was there any discussion of the dangerousness of the experiments?

A That was mentioned to the extent that Rascher mentioned the paper by Smith and Fay, which had been published shortly theretofore, I think in 1941, and in which it was stated for the first time that it had been found possible to reduce human temperature 24 degrees centigrade, the temperature taken rectally, without killing the subject. I took particular note of this because I found that very surprising; I had never concerned myself before theretofore with freezing experiments, and I had supposed until then that the reduction of temperature of just a few degrees below normal were very dangerous and then in July, 1942, there appeared in the German Clinical Weekly, the paper by a Danish physician named Dr. Eltorm, who had checked on Smith and Fay's article and also reported on numerous reductions of temperature for the purpose of treating cancer.

Q Then your answer to my question as to whether or not the dangerousness was discussed is that Rascher declared that they were not dangerous and referred to scientific periodicals and papers to prove this?

A Yes. He did in that connection.

Q Now witness, when did you again hear of these intended experiments?

A In Nurnberg, at the freezing conference.

Q In the meantime did you see any letters of any sort either that came to the referat or that came to it?

A In the meantime I had nothing to do with this matter.

Q Now let me put to you another prosecution document, document

book 3, page 22, document No. 286, exhibit 83. This is a letter from the Medical Inspectorate to the Reichsfuehrer SS. Below the heading, there is the file note 55, and for the referat in question there is the indication L I M 14, Arabic 2, Roman 2 B, that is the referat for Aviation Medicine. How does it happen that you didn't see this letter?

A Let me refer to the signature. It says: "Draft signed by order of Wullen", who was the chief of staff, and certified 2 copies, signature Anthony. On the 23 February 1947, Augustinok, a witness, on page 3730 of the English record, stated that in view of our regular office procedure it was obvious that this letter had been worked on by Anthony.

Q Now, witness, though you didn't concern yourself personally with this letter, - can you nevertheless, on the basis of your general knowledge of the work in the referat for aviation medicine, give us some information about this. This is a letter regarding freezing and in the first part Anthony writes that Stabsarzt Professor Dr. Holzloehner on the 24 February 1942, was given a research assignment on the effect of freezing on warm blooded subjects. In connection with this research assignment was there any mention of any further intention of carrying out experiments on human beings? Could you give us some general information on this?

A I myself know nothing more precisely about this research assignment, but first of all the subject of the research assignment, the effect of freezing on warm blooded subjects, makes use here of a scientifically perfectly usual expression for experiments on animals. In the list of the 97 research assignments the Prosecution put in, Document No. 934, Exhibit 450, we find under IX, two research assignments to other men, using almost identical terminology, to wit, experiments on warm blooded subjects, and also in foreign scientific papers, for instance that by the Americans Dill and Forbes, you find the same expression in English. If experiments on human beings had been intended that would have been expressed in the definition of the research assignment. More-

over, it says verbatim in this letter and I quote:

"On the proposal of Stabsarzt, Dr. Rascher, appropriate examinations were made on human beings," that meaning that at first at least the assignment was limited entirely to animal experiments.

Q I want to ask you one more question, namely, about the next to the last paragraph on the first page: "The research documents and extensive documents will be presented to Reichsfuehrer SS by Dr. Rascher at his request, that the original and copy of the report of the documents be put at the disposal of the inspectorate of the medical service of the Luftwaffe." According to the Prosecution assertion this is an experiment which was carried out on the initiative of the Luftwaffe. How is it that the Luftwaffe on the 8 October 1942, in other words, after the conclusion of the experiments, has to ask for the first time from the Reichsfuehrer SS?

A Since I know nothing about this directly or personally I can only draw the deduction regarding a point that was, it seems, quite clear, that the office which ordered these experiments and the office determined when the results were to be made public, was the Reich Fuehrer SS alone. Let me say also that in the experiments which the Luftwaffe really carried out by itself, for instance the sea water experiments, it never occurred to any one to ask the Reichsfuehrer SS or any one else to permit the publication of the findings.

Q With that, I can leave that document, and I can ask you the following: You said before that until the Nurnberg freezing conference you saw no further reports on this matter. However, the witness Neff, who was Rascher's collaborator in Dachau, said on the 18 December, 1946, on page 681 of the English record, that Rascher dictated interim reports on his freezing experiments in Dachau, which went through as top secret material, and that the reports went to the aviation office 7 in Munich in the Prinzregenten Strasse. Now this was certainly a Luftwaffe office that received these reports, and I want to ask you whether these reports were sent from Munich to the Medical Inspectorate?

A All I can say is that they never reached me, but I can point out the following: A Luftgau Medical Office (Amt) No. 7 did not exist. This can only be a confusion in my opinion with the Luftgau Medical Department No. 7, of which Dr. Daniels was in charge and Exhibit 104, document NO-283, mentions him as his superior as the man who approved Rascher's further experiments in Dachau. Then, witness, Neff said that he remembered very clearly that these reports were top secret, but it was proscribed in the case of top secret matters that they could only be sent to those offices to which they were addressed. That is to say, top secret matters were not sent through the regular channel through all intermediary stages but were sent directly. Concerning the many letters that Rascher sent to his office in the SS, namely, Himmler, it can be seen that he had no scruples about sending such a top secret matter to the Medical Inspectorate. In summing up, I can say I never saw any such top secret report, nor later when I took a referat did I see any such top secret report in the files.

Q. You have stated now that you did not see this report that Rascher sent on the 10 September 1942 to Himmler mentioned in 234, Exhibit 83, page 13 of Document Book III. Now, witness, first of all let me ask you one thing based on your general knowledge of the usual office procedure in Germany. Rascher speaks here of the Nurnberg Freezing Conference and papers to be read there and says therein, last paragraph: "I will take care that the report is submitted in an appropriate manner due to its top secret nature." Now, due to your basic knowledge of prescriptions regarding such matters how is a report to be made if it is concerned with something designated with top secret at such a conference?

A. That can only mean that at the Nurnberg Freezing Conference the results are to be reported on only so far as it is absolutely necessary for an understanding of the results. After I had heard Holzlochner's report in Nurnberg, and now again in Nurnberg after seeing a part of the records of the experiments, I can judge the difference between the way the experiments were really carried out and what we who attended the conference heard at that time. In other words, Rascher made known no details at all.

Q. Witness, then interim reports did not reach you. Now, how about the final report which the Prosecution has put in as document NO-428, Exhibit 91, page 27 of Document Book III? I don't want to read anything to you from this report. I simply want to know if you knew of it?

A. I heard about it the first time here in the trial.

Q. Then you didn't see this report in your referat, that's what you mean?

A. Yes, that is so. Let me point out one thing which is perfectly clear to those who know how German correspondence is carried on. In the copy of this report put in by Prosecution it can clearly be seen that this is copy # 2. It was prescribed in the case of top secret

matters they state how many copies of top secret matters had been made and on each copy or on each page of each copy, the number of the copy has to be printed. Since this copy is copy no. 2 there is also the copy that Rascher sent to Himmler. It must be assumed that Rascher kept copy no. 1 in his own private files and sent copy no. 2 to his Chief, who had given the assignment, Heinrich Himmler. It is unlikely that, in addition, he sent off several other copies elsewhere because Rascher wanted to qualify as a lecturer through this work and it is a prerequisite that in order to do so the applicant come through with new results. Consequently, Rascher would have no reason to spread these matters. That would prevent him from receiving the recognition that would qualify him as a lecturer.

Q. The report was not in the files of the Medical Inspectorate. Let me recall to you Professor Woltz's testimony on the stand, page 7146 of the English record. Professor Woltz stated he made inquiries to find this report and was unable to do so. Let me now put in Becker-Freysong Document 25, Document Book II, page 96. This will be Exhibit 12. This is an affidavit by Professor Knothe of Goslar of 8 March 1947. Let me ask you first of all what job did Professor Knothe have at this time?

A. He was Commander of the Medical Experimental Department in Justeborg.

Q. May I quote then this document which is very brief.

"At the request of defense counsel, I wish to state the following: I recall that during the summer or fall of 1944 Dr. Becker-Freysong telephoned me from Saalau, the sanitary experimental and lecture section and inquired whether I knew anything about a final report by Holzschner on his low temperature experiments at Dachau, or whether such a report was to be found in my section. He stated that he himself knew nothing of such a report. I thereupon explained to Dr. Becker-Freysong on the telephone that I knew nothing about such a report

either and that it could therefore not be at my section." There follows the signature and the usual certification. Now, witness, it isn't entirely clear from this document why it was Professor Knothe that you called up. Were there any closer connections between Rascher, Holzlochner, Hippke or anybody else and Professor Knothe?

A. It was very natural for me to call up Knothe because Holzlochner's Military Planning Agency was this Sanitary Experimental and lecture section in Jüterborg.

Q. Now we come to Document 286 , Exhibit C from Document Book III, page 127 of the English Document Book. It has the same code letters as those which the prosecution uses as basis for its charges against you. Now, let me ask you whether or not you know this letter which went to Reichsfuehrer-SS from Hippke on 19 February 1943?

A. I cannot recall this letter and certainly didn't draft it myself at that time because this was Anthony's affair. I did not know it then. But let me point out one thing which can be seen very clearly from this letter, that, also on the 19 February 1943, neither the Medical Inspector himself, namely Hippke, nor Prof. Anthony were in possession of this final report signed by Holzlochner, Rascher and Pinko. In this letter the Medical Inspector thanks that the freezing experiments have been carried out and states explicitly and I quote: "The result was reported upon by those who worked on them during a conference on medical problems arising from distress at sea and winter hardships on 26 and 27 October 1942 at Murnberg." I am convinced that if the written report were also available then the fact that a report was to be made at the conference would not have been mentioned but thanks would have been given for the written report.

Q. Now, we come to the Murnberg Conference which has been repeatedly mentioned by the Prosecution here. Professor Holzlochner spoke at this conference. Now, first a few preliminary questions. This conference was organized by the Medical Inspectorate. Was this the only

conference of this kind or were there several such?

A. There were 12 such conferences throughout the course of the War from 1941 to 1944.

Q. This conference, witness, concerned itself with the freezing problem in contradistinction with the consulting conference of the Wehrmacht which treated numerous subjects at the same conference. Was it customary for such Luftwaffe conferences to discuss only one problem. Otherwise the impression could be that the only reason this conference was called was to hear Holzlochner's report.

A. The conference was called by the Medical Inspectorate for scientific discussion where in contradistinction to the consulting conferences of the Wehrmacht consulted only one theme at a time and this theme was illuminated in all its facets on one or two days of the conference. I might name one or two other themes that occupied the other 12 conferences. The most important was the one a year previous to that in the summer of 1942 in Paris which concerned itself with sea distress problems in which I did not participate because I didn't belong to the Medical Inspectorate at that time. And in the summer of 1942 a second medical conference regarding night sight and space sight, and then in 1943 a conference regarding medical air raid protection measures, and in 1944 a conference on the use of the so-called efficiency increasing drugs such as caffeine, benzedrine, ephedrine, and so on.

Q That's enough, witness.

Now, Dr. Anthony was the chairman of this conference. Was it usual for the referent to hold the chairmanship of such conferences?

A That was altogether customary, and, in all conference reports which can readily be found in the library of the Aero Medical Center in Heidelberg, can be seen that Anthony always had the chairmanship of these conferences. Two conferences took place after Anthony left and, in that case, since I had his job, I was in charge of them.

Q Now, witness, from that it can be seen that the preparations for the Nurnberg conference was done by Professor Anthony?

A Yes, that is so and, of course, the man in charge of a conference has to know what the agenda is going to be.

Q Now, witness, you were assistant referent at that time under Anthony. What did you have to do with this conference?

A All the conferences that took place under Anthony's referat I had to organize. That is quite a job because there are discussions by eighty or ninety scientists who are going to read papers in two days.

Q That is to say you had nothing to do with the scientific preparations of it, but just the organizational and technical side of it.

Now, did you know what Holzlochner was going to report on?

A No, I didn't.

Q But did you know Professor Holzlochner before that?

A Yes, I did.

Q Where did you know him and what did you know about him?

A I made Anthony's acquaintance in the course of further training for Luftwaffe physicians and fliers that took place in Juckerberg. During this training course Professor Holzlochner delivered a lecture on sea distress problems and

presented a movie regarding his foam suit that he had already developed.

Q. Witness, if I understand you correctly, this was a lecture in March, 1942, at which Holzlochner spoke regarding his practical sea distress experiences and about a new foam suit; namely, a theoretical problem which had to be solved practically?

A. Yes.

Q. Dr. Augustinock, on the 26th of February 1947, page 3736 of the English record, said that Holzlochner was, for a long period, the director of a rescue station on the French Coast. How long did Holzlochner's report in Nurnberg take?

A. Not exceptionally long. I should say thirty or forty minutes.

Q. Did he show any pictures or films?

A. No.

Q. So far as he spoke about experiments, did he say anything about the experiments carried out on concentration camp inmates?

A. No, he didn't.

Q. Who did Holzlochner say the experiments were being carried out on?

A. Holzlochner himself spoke only of sea distress cases. That experiments were carried out on condemned criminals could be seen because, after Holzlochner reported, Rascher did.

Q. Now, witness, I come unfortunately to a rather unhappy matter; namely, Document No. 448, Exhibit 81, Document Book 3, page 7. This is your affidavit of 24 October 1946. Witness, are these your own words that are to be found in this affidavit, or just what is it that is written down here?

A. No, this is not my own wording. This was put to me, in English, in the presence of Mr. McHaney and, I believe, one interrogation preceded this affidavit. I was allowed to make some changes in the affidavit, but when I wanted to make more precise statements on certain points and didn't want to sign such generalizations because they were too ambiguous, McHaney told me that I should later certainly have an opportunity to make these further explanations. I presume that he meant the situation in which I find myself at the moment.

Q. Now, witness, please make those explanations but be brief. First of all, witness, there is a sentence in your affidavit on page 2, under point 5, you say here:

"It was rather well known that these men were experimenting on concentration camp inmates."

What did you mean to say by that expression "rather well known"? Did that mean it was "rather well known" to you?

A. At the Nurnberg conference I know what I had heard Rascher say in his discussion with Hippke. Whether I heard, already at that time, or later, that Rascher had a laboratory in Dachau I do not recall today. As experimental subjects only condemned criminals were named.

Q. Now, another question about this affidavit.

"As a result of Holzlochner's report and others given at the conference, issued instructions to the flight surgeons that the warm bath method was to be used in reviving aviators who had been severely chilled."

First of all, what do you mean by "we"? You said that you couldn't issue any instructions at all.

A. It is possible that in the interrogation that preceded this affidavit I used the word "we" and said that "we had done so and issued such and such instructions." That, of course, means the office to which I belonged and, in normal

conversation, it is a perfectly common way of expressing oneself.

Q Did you yourself have anything to do with the issuing of this directive to the troop physicians?

A I had nothing to do with that. This directive was a result of the Nurnberg conference and, from the purely formal point of view, it was not the referat for aviation medicine that had anything to do with this, but the referat 2-I-B with its file number of 49. It was this referat that had all the dealings with the troop physicians. That was the referat for hygiene.

Q We have attempted, Your Honors, to get our hands on this directive. It was, for technical reasons, impossible unfortunately. This is the directive of the 3rd of August, 1942 - "Directions to Troop Physicians for Preventing Damage to Persons through Cold." I have included this in my document book primarily to show that it bears the file number 49, only to show that it has nothing to do with the referat for aviation medicine. This is on page 97 of Document Book 2. It will be Exhibit 13 and it is Document 26.

THE PRESIDENT: Counsel your last exhibit you offered was your Document 25.

DR. TIPP: Your Honor, this is Document 26, Exhibit 13. It is noticed in this document that it bears the number 2-I-B instead of 2-II-B.

BY DR. TIPP:

Q I return now to your affidavit, witness. You say here that it was "fairly well known that these men were experimenting on concentration camp inmates." Did you have any positive knowledge as to who these subjects were and how they were chosen?

.. No, I had nothing to do with that selection and never had any positive knowledge of it.

Q Witness, after the Nurnberg conference did you have anything to do with the results of the Holzlochner-Rascher-Finke experiments? Did you see reports on it after Nurnberg?

A No, nor are any reports known that were to have been sent out after the Nurnberg conference.

Q I come to the crux of the Nurnberg conference, so far as the prosecution is concerned, at least; namely, Holzlochner's lecture. Document No. 410, Exhibit 93, Document Book 3, page 96, says the following:

"Holzlochner gave this report on his experiments which were, of course, experiments carried out in Dachau."

This is on page 319 of the English record of the 12th of December, 1946. This formulation of the matter the prosecution seems to have taken from its own exhibit because, under #5 in your affidavit, you said:

"At the Nurnberg conference held in October, 1942, Dr. Holzlochner gave a report on the freezing experiments conducted in Dachau in cooperation with Dr. Rascher."

W However, previously, witness, you said that Holzlochner had spoken about his practical experiences in sea distress work. Now, just what did Holzlochner actually report on? These two statements do not correspond to each other.

A Holzlochner's report was a mixture of practical sea distress experiences, results of animal experiments and results of experiments on human beings.

Q Then if I understand you correctly, a combination?

A A combination.

Q And again I would like to quote to you something that the Prosecution said on the 12th of December 1946, page 310 of the English record. Let me quote. Mr. McHaney said the following -- I should like to make the remark here before I continue although it has not been said so far definitely, that these experiments were not carried out on persons rescued from sea. The witness Lutz told us, however, that it was made perfectly clear that these were experiments that were carried out on human beings here where humans were in a planned manner submerged in ice water. This is clear from the following part of the report because it would have been impossible for any scientist to make these detailed clinical observations on the case of individuals exposed"---.

Witness, as you said you are not a specialist in the field of freezing, but you have made general medical knowledge, therefore I can ask you is this decision on the part of the Prosecution correct as here stated by Mr. McHaney?

A No, a great deal can be said in answer to that. First, let me tell you what Lutz actually said. This was in testimony given on the 12th of December 1946, page 242, -- page 342, I guess, of the English record. In answer to the Prosecution's question I should like to ask you whether or not if one didn't understand at that conference that the experiments had been carried out on inmates in the concentration camp. Lutz answered "I cannot judge that for sure, but I believe so. I believe that most of them must have seen that clearly." This shows quite clearly that this point was not made clear, but that it was left up to every individual's imagination. Lutz himself had worked in animal experiments on the freezing problem, and worked in the Institute in which the scientific animal experiments on these questions were carried out, and if he sees something more clearly than others that is, of course, quite

understandable. I had not worked personally on freezing problems, nor had I had anything directly to do with Rascher, and in addition let me point out that Holzlochner certainly gave no report on the course of a freezing experiment where, for example, on the same man the various stages of freezing are carried out and observed on the same man. In medicine it is quite customary, it is true of so-called typical case histories, and you think in terms of them. You speak of the normal and usual course that a disease takes from its beginning to its end, and it is perfectly clear that such a case history is combined from observation on very many individual patients, and also contains the result of experimental observation. Let me also point out that between a report which is a top secret report, and a publication made without any secrecy whatsoever, there is a very evident difference to anyone. The report that Holzlochner, Rascher and Finke signed on their work there and which Rascher sent to Himmler was a top secret matter. The report in the conference of sea distress or winter distress in Nurnberg which the Medical Inspector of the Luftwaffe and Holzlochner's lecture stood under no secrecy. If the competent person then is what actually stood behind Holzlochner report, and that the experiments and the conclusions from them were to be treated as top secret, then it is perfectly clear that this report would not have been made in a perfectly open publication.

Q Witness, regarding Holzlochner's lecture, the Prosecution asserted in its case that the Holzlochner report contained a number of passages from which it could be clearly and unequivocally seen that there were fatalities in the experiments in Dachau. In other words, this report shows clearly to you at least who knew the facts of the experiments as such, that in the course of the experiments at Dachau crimes were committed. Is this assertion by the Prosecution correct, as far as you know, witness?

A From Holzlochner's lecture certainly no one even knew that experiments had been carried out would deduce that there had been fatalities in the course of the experiments. Perhaps what Rascher said in connection with Holzlochner's report later could give someone ideas, but

that would not be seen from Holzlochner's lecture. Seen from the psychological point of view today, as I know all the other matters, it is very easy to see in this Holzlochner report everything I have found out in the meantime, but at that time we didn't know these things.

DR. TIPP: Mr. President, I should like to discuss a few of these passages which the Prosecutor feels to be particularly incriminating, with the witness. This will take, I believe, roughly half an hour, and I do not know whether the court wishes me to begin on this before the recess, or if it would be better if we waited until after the recess to take up this matter, which must be understood in its entirety.

MR. HARDY: Mr. President, Your Honor, it seems to me the defense counsel has labored under this point a long time. He has been here nearly an hour discussing the Nurnberg conference. It seems to me he has covered it amply. I don't see any reason for going into it very extensively. There are four or five other charges against the defendant. He will be in the witness box four or five more days at this rate.

THE PRESIDENT: The Tribunal, of course, is not aware of the question counsel desires to ask the witness concerning this report, but counsel will be permitted to pursue the matter at least until the Tribunal feels he is pursuing it too far.

In the meanwhile the Tribunal will be in recess.

(Thereupon a recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

BY DR. TIPP:

Q. Dr. Becker, I was just told by the interpreter that the word "Krankheitsbild" which you used was not clearly translated. It was translated as "case history". Case history, on the other hand as I heard is the history of one individual case from the beginning of the disease until its end, whereas "Krankheitsbild" meant something else. Would you please clarify for the benefit of the interpreter what "Krankheitsbild" is intended to mean?

A. I agree with you that in the German usage of language one understands case history very specifically to be the course of the illness in the in the case of one individual patient. Under "Krankheitsbild" on the other hand one understands the typical course of any one illness. For instance, if an university lecturer is discussing an illness, and in particular is referring to influenza, he gains his pictures by his experience on hundreds and hundreds of patients and on the basis of all this experience he then arrives at the typical picture of that disease, which of course deviates in the case of one or the other patient but on the other hand there is a typical picture of that illness. This for the medical man is quite a matter of course and it is very clear to him that any typical observation cannot hold true of any one individual patient but represents a combination of all the cases he has experienced.

Q. I think that can clarify that point, witness. You were last saying that according to your knowledge at that time from Holzloehner's lecture nothing could be learned about any crimes having been committed. You didn't hear anything about fatal cases either, did you?

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A. No, Holzloehner made no mention of any fatal cases.

Q. Now, witness, let us refer to some of the passages in Holzloehner's lecture which are possibly held to be incriminating by the Prosecution. Let me quote from Prosecution Document 401, Exhibit 9³, on page 86 of the German, page 79 of the English record. This is the report about sea rescue. In that connection I would like to discuss the report of Dr. Holzloehner with you. At first, witness, let us turn to one particular passage. You will find this passage on page 4³ of the original report which is on page 89 in the English Document Book. I quote: "The rapidity with which numbness occurs is remarkable. It was determined that already 5 to 10 minutes after falling in, an advancing rigor of the skeletal muscles sets in, which renders the movements of the arms especially increasingly difficult." When examining Professor Schroeder the Prosecution pointed out that this determination of rigor after five to 10 minutes could not have been made in practical cases of sea rescue but that leads one to believe that experiments were carried out. What can you say about that, witness?

A. This conclusion is in no way correct. I am not an expert on the freezing matter and I never served in the Sea Rescue Service of the German Luftwaffe where I gained personal experiences but I am in a position to give you a reply to this question on the basis of a report made by the American Sea Rescue Service. This report expressly refers to practical experiences as they were gained in that service. It can be found in a work by Major P. Kelsay and it is entitled "Acute Exposure of Flyers in Arctic Waters" which appeared in the Air Surgeon Bulletin, Volume I, part 2, dated February 1944. It says there almost verbatim and I may quote:

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"Rigor becomes noticeable on fingers, hands, and thighs and under circumstances on the entire body." Another statement of the rigor of the fingers", after entering the water withing ten to 30 minutes there is a general rigor apparent to such an extent which means that the victim experiences difficulties in swimming and entire loss of control over its limbs. Numbness appears within five minutes." Major Kelsay says in a different passage, and I quote: "Redness of the skin was noticed in the case of one patient who only remained in the in the water for five minutes." I may assume that this proves that under the experiences of the practical sea rescue service one can also gain experience after five or ten minutes.

Q. The next page in that document, on page 43 of the German original, page 89 of the English Document Book, we again find a quotation referring to the rigor which says here after a scientific discussion of that rigor, which is of no interest: "The rigor ceases spontaneously at death. From this it follows that persons seemingly dead who still evidence a definite rigor offer hope of revival." At first I couldn't explain to myself why this point of rigor was put to Dr. Schroeder but I think this is the explanation. Now, can you tell me, witness, whether this determination in this last quotation can only be experienced as a result of an experiment?

A. No, I don't but you can assume that. From all sea rescue reports one can see that such experiences are gained after the rescue was carried out and after one sees that any rescue measures were successful or not successful. This seems to be a very clear experience.

Q. Now, another two passages which deal with death cases. These can be found on the same page, skipping one

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paragraph it says there and I quote: "If the rectal temperature has dropped below 28 degrees a sudden death of heart failure can develop from the arrhythmia. Breathing can continue after the cessation of the heart activity, as slow gasping breathing for up to half an hours."

In the same connection there is another paragraph and I quote: "It is of particular importance that the drop of temperature can continue for 20 to 40 minutes after removal from water if the rescued person, rubbed dry and wrapped in warm blankets, is left alone. Subsequent decline of rectal temperature of more than 4 degrees may occur. If this subsequent drop in temperature passes below a rectal temperature of 28 degrees sudden death by heart failure can occur." I am only discussing this passage with you because it was put to Professor Schroeder during the examination that these rectal temperature measurements could not possibly be carried out within the practical sea rescue service. This Prosecution claimed no doubt an examination which could only be carried out in case of an experiment. Mention was made here about death cases after the temperature dropped to a certain degree and this shows clearly that crimes must have occurred. Can you define your attitude towards this, witness?

A. I know that the sea rescue boats and airplanes of the sea rescue service carried thermometers. On the basis of a document which you will submit later it can be seen that great value was attached to see that in the rescue boats as well as in the rescue planes physicians accompanied the crew or, at least, medical NCOs in order to help persons concerned. All that has to be done in that case for a measurement of rectal temperature. Referring to this subsequent drop in temperature that also can be carried out in the practical sea rescue service. Of course, there may have

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been a supplementation by way of an experiment. I may refer you to a different work by Captain Milton Mazer which is entitled "Medical Problems in Air Sea Rescue", same periodical, Air Surgeon's Bulletin of October 1945. The passage to which I want to refer you reads, and I quote:

"As soon as the experimental subjects emerged from the water and dry their bodies in the wind temperature continued to fall." In this paper too we find the well known combination at which the medical man arrives, namely, a result of an experiment as well as a practical experience. Finally, I may point out to you, with reference to the danger of death at temperature below 28 seems to me after what I know now to be merely one possibility, for now I know of a number of papers where patients who for therapeutical reasons are treated with very low temperatures measurements up to 24 rectal temperature without any proof that any of these patients had died as a result.

Q. Now, let us turn to the next passage, witness. This is on page 33 of the German original and can be found on page 90 of the English copy. This is the first paragraph on that page and I quote:

"In the blood of severely frozen persons the number of red blood corpuscles is increased up to 20%. The increase in leukocytes is even greater; 25,000 to 27,000 are to be found per mm³. The multiplication of the erythrocytes corresponds to an increase in hemoglobin of from 10 to 20%. Noticeable and important is a great increase in viscosity of up to 7.8."

I am not a physician, as Mr. Hardy says, and I am just an ordinary simple man and I can imagine nothing by reading this formulation. I want to ask you, are these determinations which can only be made in the course of an experiment? Are these determinations which are made in the case of a living person or in the case of a dead person?

A. These, naturally, are examinations which only have any sense if applied to living human beings and can only be carried out in that way.

Q. Witness, perhaps you will first tell us what these examination concern?

A. We are merely concerned with the counting of the red and white blood corpuscles. This is an examination which really does not require a physician but can be carried out by every technical assistant or medical nco. In that connection, I may again refer you to the work by Captain Hager where he says:

"The usage of serum differs in every individual case according to the circumstances. The consideration of the blood concentration may give you a picture to that effect, but a determination of the blood concentration can also be ascertained by the copper sulphate method."

I want to point out that this remark by Captain Hager refers clearly to practical sea rescue experience and I would assume that if, in

"the American sea rescue service, these methods are applied it appears quite credible that the even simpler method of the counting of blood corpuscles is used in the German sea rescue service in the Channel. Such a method can even be applied in a rescue boat because all the boats are covered.

Q. Now, the next passage, witness, which can be found on page 91 of the English Document Book. This is the last paragraph on that page:

"The conditions of the heart allow an opinion to be formed on the problem of collapse after rescue."

Collapse after rescue means the death after rescue, isn't that right? Can this determination be made only in the case of an experiment, witness?

A. No. This collapse after rescue was the very thing which all physicians who dealt with that problem found to be a puzzle and this was the problem which worried every physician. It always puzzled him that after these patients were already rescued they would suddenly die a few hours afterwards, after they were already safely in a boat or in the hospital. I may point out that Professor Holzlochner initially in his report is speaking about mass catastrophes occurring in the Navy where such late or rescue collapses with a fatal end occur again and again. This unfortunately was the general experience everywhere, not only in Germany. Referring to the special questions of the condition of the heart and the medical interest in the condition of the heart, I may again refer to the work by Captain Kaser who also is writing about the same findings of the heart and says, and I quote:

"The observation in these two cases is particularly interesting because it is proven that the death in the water is brought about by circulatory disturbances. It frequently occurs during the process of rescue."

Here again we have the collapse after rescue.

Q. Now, witness, another quotation in that connection which is to

be found on page 92 of the English Document Book and on page 44-A of the German original. Holzloehner is speaking, and I shall not quote him verbatim, about the good experiences made in the case of animal experiments with quick re-warming and he is saying that water temperature of 40 degrees not only accelerate the return to normal temperature and absorbed the sudden dangerous falls of temperature after rescue, but may also be of life-saving effect should the heartbeats begin to stop.

That very clearly was an experimental experience by Dr. Holzloehner. Wouldn't you have to conclude that some crimes were committed in that connection?

A. That is, in fact the only passage which clearly points to an experiment, at least, to a therapeutical experiment. But not only I, but certainly all the others who knew considerably more about the freezing problem than I, found this to be extremely calming and satisfactory that Holzloehner states expressly that he never saw any such danger for those who underwent that treatment. From that it became clearly apparent to all listeners that no incidents and no death cases occurred during this experiment and this, for all of us, meant the solution of the Holzloehner lecture. At any rate, this, in my opinion, was the only question of any practical importance.

Q. Mr. President, in this connection I may offer two Becker-Freyson documents. The Document #27, which I shall give Exhibit #14, and the Document #28 which will receive Exhibit #15. I may say, Mr. President, that in the case of that work we are not concerned with experiments conducted on human beings abroad about which according to the decision will only be made later, but experiences of the American at the Tribunal, Sea Rescue Service. These documents are in Becker-Freyson Document Book #2, page 98 and page 103.

I shall now quote from these documents.

JAMES SEBRING: Page 89 or page 98?

JR DR. TIPP:

Q. 98 and 103.

This brings to an end the lecture by Holzlochner, witness.

One more question. As we know, the first speaker after Holzlochner was Dr. Rascher. These Rascher remarks were repeatedly the subject of discussions in this court room. Do tell me, witness, what was the very sensational thing which Dr. Rascher mentioned during that meeting?

A. Rascher said that in that connection experiments were carried out by order and responsibility of the Reichsfuehrer SS Heinrich Himmler on sentenced criminals who had volunteered for that purpose after having been promised that there would be a mitigation of their sentence or some other alleviation of their fate. This is all he said.

Q Witness, did it become evident from these remarks made by Rascher that primarily death cases had occurred during these experiences, speaking specifically or quite generally that in the execution of these experiments any crimes were committed?

A No, neither one or the other became apparent. I may point out again that Rascher himself had obtained the approval by Reichsfuehrer SS Himmler to treat this matter as top secret.

Q Recently, in a different case you said once, when speaking about a low pressure chamber, that you didn't consider these remarks by Rascher as very nice or pleasant; tell us again witness, what was the reason for your rejecting these remarks made by Rascher?

A Subsequent to these statements of Rascher I mentioned a few words about experiments with a local cooling of the neck area; these in themselves were absolutely harmless experiments because he had stated before that any local cooling of the neck and the area behind the head would not lead to any dropping of temperature or at least not any essential dropping of temperature. I think that what we learned from this report it only concerns dropping of one to two degrees, which are not very dangerous. Therefore, it was not really what Rascher had said that I didn't like, but the general manner in which he was saying it. Of course, today after almost five years have elapsed, I cannot repeat his words verbatim, and it is very difficult to describe such an indefinite impression. I can only say that the manner in which he was speaking, perhaps the manner in which he was speaking about his experimental subjects made a very unpleasant impression on us both. Nobody thought and nobody could have thought that anything criminal had been committed.

Q You were saying before, witness, that the basic result from all this Holzloehner was that quick rewarming was to be encouraged and that quick rewarming had had the very best results. Wasn't your solution something so basically new and so revolutionary that one could only really believe that statement until details were also given?

A Holzlochner's result was, of course, extraordinarily important. No doubt can exist about that; but it was neither completely new nor was it sensational. First, during the very same meeting Professor Woltz already had reported the very same result on the basis of his animal experiments. Furthermore, the problem of quick rewarming had been mentioned and dealt with ever since the first sea rescue conference in Paris in the year 1941. Secondly, in the periodical, the German Military Physician, already in the summer of 1942 there appeared a study by a certain Mr. Bienhold, who was also recommending the subject, the quick rewarming procedure. This work was quoted by Professor Jarisch during the Nurnberg Cold Meeting, and it was discussed by him in detail. Already before the lecture by Holzlochner, the quick rewarming procedure had been three times the express subject of lectures, and after Holzlochner four more lecturers were also reporting on that very problem. I should like to point out specifically that during the Nurnberg meeting a few experiences had been gained during actual sea rescues where results were obtained through quick rewarming.

Q Witness, for purposes of clarification, one more question; you were saying that the result was neither sensational nor basically new; on the other hand you were saying that these experiments were important. The impression may arise as if the importance of the experiments would have been decreased since these things had merely been the subject of discussion. Why were human experiments at all necessary?

A I see the significance of these experiments in the following: I think that in the course of practice one would have anyway have arrived at the similar results, but in the practice of sea rescue it will always be the case that the ship wrecked, -- and we are here concerned with ship wrecked during the War, -- will also have injuries, damages to their health, so that a result will never be as clear as in the experiment. This experiment, or the experiments by Holzlochner have clearly given us this result quickly and thus obviously contrary to experience gained during practical experiences.

DR. TIPP: In connection with that question I may offer Becker-Freyseng Document 29. This can be found in document book No. 2, on page 107. This document was already submitted by the Prosecution. It is the report of the sea and winter rescue matter. However, the full document was not submitted by the Prosecution.

I am just being told that this document can be found on page 108. I have submitted this document in order to confirm what the witness had mentioned about that meeting. I shall not quote anything from this document, but I shall only give you for the purpose of simplicity a few page numbers. The lecture by Jarisch can be found on page 108A; the lecture by Professor Weltz where he reported on his animal experiments can be found on page 113. On page 118 you see reports about experiments in practice by Zschukke and Doerfler; on page 121 also it speaks about experiments in practice. I shall shortly like to touch on this passage. Doerfler says here, Base 3:

"On 25 April 1942 two Englishmen were rescue who had allegedly been drifting for 6 hours.

a) Symons: "(which is obviously the name of the person rescued) "severe exhaustion, slightly benumbed. Abdomen hard as a board, sensitive to pressure (bladder filled). Temperature: armpit 35 degrees, rectal 34.5."

b) Dixon: The same as a), but the temperature was 37.3. Quick recovery.

Case 4: A German technical sergeant who came down and landed on the sea on 17 May. Temperature: rectal 34 degrees, armpit 33.5."

Q Witness, now one concluding question: As you were saying, there was a scientific meeting concerning sea and winter emergencies. As you said, you were not an expert in this field, you were making experiments in the field of practical sea rescue, and we shall assume you had worked in this field experimentally; I may, assume, however, that the leading experts of the Luftwaffe and leading experts of other branches of the Wehrmacht were present during that meeting; what these people concluded

from the meeting and from the lectures you cannot tell us, witness,
but I would like to know one thing from you: did any one of the
participants in this meeting protest publically against Holzloehner's
lecture either before, during or after the lecture?

.. No, I may say in that connection at that time I would not at all have understood any such protest had it been made. According to the document, which is available here, 55 members of the Luftwaffe were present during that meeting, 12 representatives of the Army, 4 representatives of the Navy, 4 of the Waffen SS and Police, and 19 civilians, i.e. university professors and other gentlemen.

Q If I summarize briefly, witness, you are saying that you would have considered any protest as being senseless because you made no observations whatsoever that even could have hinted at crimes. None of the leading experts of Germany, who no doubt were present, made any such observations because no one in effect protested, is that true?

.. Yes, that is quite correct.

Q I will leave that meeting and I will go to another document, which was submitted by the prosecution. One preliminary question: would you please tell the Tribunal who Professor Buechner was as he was mentioned as a lecturer during the Nurnberg meeting?

.. Professor Buechner was and still is today the ordinariat for pathology and the director of the Pathological Institute of the University at Freiburg. During the war he was consulting pathologist with the Medical Inspectorate of the Luftwaffe and head of the Institute for Aviation Pathology at Freiburg. He is now the Pro-Rector of the University of Freiburg.

Q Would you please tell us, witness, what Professor Buechner had discussed in Nurnberg?

.. Professor Buechner reported about the pathology in reference to cooling on the basis of the literature and on the basis of autopsy findings.

Q On what corpses did Professor Buechner gain his experience of which you were speaking?

A These experiences were gained by autopsies of corpses of soldiers of the Luftwaffe and the Navy, who had died as a result of sea distress.

Q In what way did Professor Buechner obtain that material?

A I already said that Buechner was a consulting pathologist and all the autopsy certificates of the Luftwaffe were sent to him.

Q In that case, if I understand you correctly, Professor Buechner was the member of the Luftwaffe who had gained the most experience about death cases in connection with sea distress. At any rate as far as it concerned his special field of pathology?

A Yes you are right, with that modification.

Q Now, the Prosecution in its submission of evidence has presented a document, which I should like to discuss with you in that connection: Document No. 922. This was submitted as Exhibit No. 435, it is an excerpt from a report of the meeting of the consulting physicians in the year of 1942. Tell me, witness, were you present during that meeting?

A No.

Q Did you hear about the lectures given during that meeting before this trial?

A Well, I knew that there was to be a meeting, but I heard nothing more about it.

Q According to the documents submitted by the Prosecution, Professor Holzlochner on that day also held a lecture. This is obviously a summary of his lecture which he held at Nurnberg. As it can be seen from the document, Mr. Buechner also spoke during that meeting and the prosecution quoted

that discussion and lecture as follows: "Buechner: We have studied the morphology of the adjustment to cold and the pathology of general severe chilling; in 20 cases of death caused solely by severe chilling; and in numerous experiments carried out on animals, and have determined the following:" It was not explained just what was deduced from the document. At any rate, we are here concerned with the autopsies in cases of death, cases which were concerned with the Holzlochner lecture. For the purpose of clarification, witness, can you once more tell us on what the examinations by Buechner were based?

A In my opinion this statement is clearly based upon the knowledge which he gained after working on these autopsies and records; at any rate, I know of nothing else.

Q If it pleases the Tribunal in this connection, I now offer the Becker-Freysen; document No. 30-A and later the Becker-Fresen; document 30-B. This will be Exhibit 17-A and 17-B. Both of these documents can be found in Document Book 2. The first on page 124 and the second on page 127. I may confirm the testimony by the witness by quoting from Document 30-A on Page 124 of the Document Book. From 30-A page 124, Dr. Buechner at first describes his position as professor of pathology and director of the Pathological Institute of the University and his political attitude; I quote:

"1) An institute for aviation medical pathology under my direction was attached to my university institute in Freiburg during the war. This institute received, among other things, all autopsy reports of the Luftwaffe pathologists working in the various home districts and occupied territories."

I shall skip the next few sentences and I shall continue

to quote from the same page, second paragraph:

"2) The increasing losses of the Luftwaffe from fatal undercooling of aviators after being shot down into the Channel or the Atlantic make it necessary to work systematically on cases of death, due to undercooling. At my instigation and by order of the Medical Inspectorate of the Luftwaffe, autopsies on aviators and marines who had died through undercooling while in distress at sea, were systematically performed by some Luftwaffe pathologists..."

The next sentence deals with the treating physicians.

Then later:

"The evaluation of the records and particularly the microscopic examination of the organs of these bodies were carried out at my Freiburg institute...." and a few names are again mentioned, namely the physicians who were conducting these examinations. There is also mention made of the work which was attached to these examinations. It is Exhibit 30-B.

Mr. Buchner continues:

"3) For each of the 28 cases investigated in my opening report at the Luftwaffe meeting, I spoke in detail about these twenty cases and the thorough experimental tests on animals. The report 'The Pathology of Undercooling' was published in the *Clinical Weekly*. This I also enclose." That is also Exhibit 30-B.

Buchner continues:

"4) With reference to this report, I made the following short remark at the Consultants' Conference: 'We have examined the morphology of the adaptability to cold and the pathology of general undercooling, with 20 straightforward cases of death due to undercooling and numerous animal experiments....'

"5) I did not carry out or cause to be carried out any autopsies or microscopical tests in any case of death from an experiment on a human being, particularly not in the undercooling experiments on humans which were carried out by Professor Holzlochner and Dr. Rascher."

There follows the signature and the certificate of a Notary. I shall not quote the enclosures, but I should like to ask the Tribunal to take notice of them.

Now, the last question on cold. Witness, you know that the Prosecution asserts that these experiments were entirely senseless, were unskillful, and did not produce anything new for medical science; could you please define your attitude toward that with a few words?

A. Upon the basis of my knowledge of Holzloehner's personality may I first say that it is my firm conviction that the experiments which were carried out by Holzloehner were absolutely necessary, had sense, and were admissible experiments. I was confirmed in this conviction of mine by what the prosecution witness Neff said here in this courtroom, making a very clear distinction between the cold experiments in the period of Holzloehner, Finke, and Rascher, and the period when Rascher was working alone. That such experiments, such as quick re-warming, for example, cannot be performed on animals is quite clear, and also becomes evident from a number of foreign papers on that subject. In order to recognize the significance of the results, one need not be an expert on cold. I think that a winter during which, according to official reports in the English House of Commons, 534 persons died from cold in the British occupational zone of Germany alone, and 175 people died in Berlin, when 778 persons had been admitted to hospitals in the British zone as a result of freezing, and during which in Berlin 15,615 people were in "very urgent danger of freezing to death", one would at least have to recognize the significance of the problem as it existed for us after the first winter in Russia. After all, thousands of frozen persons were treated wrongly, and finally the right solution is found and is immediately confirmed.

The decisive answer to your question I should like to give you on the basis of a work which I read recently where quick re-warming is called a revolutionary thing in medical science. The author, who is an American, writes: "Before our war against Japan ended, this method of quick re-warming had been accepted as the recognized treatment by all American sea rescue services, and is today generally accepted by medical circles." This statement originates from Major Alexander.

DR. TIPP: I may say that the document shows that this is the Professor Alexander who is the medical expert of the prosecution in this trial. In this connection, Mr. President, may I offer Becker-

Freyseng Document No. 31, which is to be found in Document Volume II, page 140. This will receive the exhibit number 18. It is an excerpt from a publication "Harpers Magazine" entitled "Secrets by the Thousands", by Lester Walker. I should like to quote only a few passages which seem to me to be particularly important on that point. I quote from the first page, page 140 of Becker-Freyseng Document Book II. These are the last few lines of the first page of the document:

"With reference to the medical secrets in this collection, one army surgeon has remarked, 'Some of them will save American medicine years of research. Many of these secrets are revolutionary, as, for instance, the German technique of treatment after prolonged and usually fatal exposure to cold.'

"This discovery, which was revealed to us by the aforementioned report of Major Alexander, revolutionizes all medical knowledge on that subject."

BY DR. TIPP:

Q. This, witness, concludes the Holzloehner, Rascher, Finke complex and there are only two more questions of a very general nature. We know, witness, that Dr. Rascher carried out other cold work long after the Luftwaffe experiments had been concluded. May I ask you, did you at any time hear of this further work by Rascher?

A. I have to answer that question in the affirmative, but not during the war.

Q. When did you first hear about these experiments?

A. I heard that for the first time during my activity in the Aero Medical Center in Heidelberg, but I heard nothing very specific then. Only here was I thoroughly informed.

Q. This testimony, witness, seems to be contradicted by Prosecution Document NO-238, which is in Document Book III, on page 130 of the German and 118 of the English version. This is a file note signed by Mr. Sievers, dated 4 February 1943, and it concerns itself with SS Hauptsturmfuehrer Stabsarzt Dr. Rascher. Mention is made in this docu-

ment that Generaloberstabsarzt Professor Dr. Hippke allegedly said on the telephone that one could no longer tolerate Dr. Rascher's experiments, and a suggestion was made to transfer him very quickly to the East. The conclusion could be drawn, witness, that you, as a member of the Referat for Aviation Medicine, did know these experiments. At any rate, perhaps the prosecution could arrive at such a conclusion. Please comment briefly on this document.

A. First, if Generaloberstabsarzt Hippke actually did know anything, this in no way means that I knew about it. Professor Hippke, after all, was my supreme superior and I was an assistant Referent. But it does become clearly apparent from this letter that not even Professor Hippke knew anything because had he known anything he wouldn't have had to instruct Oberfeldarzt Daniels to report to him or to instruct Rascher through Daniels to report to him what he was doing. Then, it can also be clearly seen from this letter that this work of Rascher's was assigned to him by the Reichsfuehrer SS, Heinrich Himmler. Daniels, as the local Luftwaffe superior officer, merely gave Rascher the opportunity to carry out this order by Himmler.

Q. In conclusion, witness, I may state with reference to the complex of cold questions that you heard about the plans for the experiments during the Professor Hippke-Rascher conversation in June, 1942, and that on this occasion you heard about experiments which were to be carried out on voluntary subjects with the approval of the head of the state, Hitler, and the Reich Ministry of the Interior, without learning any details about the matter, and furthermore that you heard about the result of these experiments on the occasion of the Nuernberg cold meeting without it becoming apparent to you that any crimes were committed during the execution of such experiments, and finally that you knew nothing of Rascher's further work in that connection besides what he was doing with Finke and Holzloehner, is that correct?

A. Yes, that is correct.

DR. TIPP: Mr. President, this brings me to the conclusion of the

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cold complex and I think it would be advisable to adjourn at this time.

THE PRESIDENT: The Tribunal will now be in recess until one-thirty
o'clock.

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 21 May 1947)

THE MARSHAL: The Tribunal is again session.

BECKER-FREYSENG - Resumed

DIRECT EXAMINATION - Continued

BY DR. TIPP:

Q Dr. Becker, this morning we concluded the question of the freezing experiments, and now we come to a further charge against you. The indictment charges you to have participated in criminal experiments between June of 1942 to January 1945 in the concentration camps of Natzweiler and Sachsenhausen. I ask you now, witness... When did you first hear of the facts which the prosecution has here brought forward, namely, these alleged experiments?

A I heard about them for the first time here in Nuernberg when I was arraigned.

Q When did you hear the name, for the first time, of the man who had most to do with these experiments - to wit, Dr. Haagen, the Director of the Hygiene Institute of the University of Strasbourg, and also Consulting Hygienist with an Air Fleet after a certain date. I do not know on what, precisely, the prosecution bases its charge that you participated in a hepatitis experiment. It can only be that your responsibility is based on your activities as Referent, or Assistant Referent. Since Haagen was a medical research officer in the Luftwaffe I must assume that your connection with these experiments, and your activities, were with Haagen. Therefore, witness, I put to you, on the question of the hepatitis experiment, the document from Document Book VIII, page 6, Document NO-137, which was put in by the prosecution as Exhibit 189. This is Haagen's letter of 7 October 1943, to the Director of the University of Strasbourg. It concerns itself with the recognition of this Hygienic Institute of the University as a Military Institute. Look at No. 5 of this document. Here there is mention of a commission regarding hepatitis epidemica. Did you know anything of this

research commission?

A This commission was given by the Reich Research Council. It is number 5 in the Document. It is also a top secret research assignment. Thus, Haagen had not only no reason to tell us about this, but since it was a top secret matter he was forbidden to do so.

Q Now, we know of the dual position which Haagen occupied, and which played a large role in this trial. He was Director of the Hygiene Institute of the University of Strassbourg, and, at the same time - from a certain date on - he was a Consultant Hygienist in the Air Fleet Reich. To which aspect of Haagen's dual activities does this letter refer?

A Of course, it refers to his activities as Director of the Hygiene Institute of the University of Strassbourg....because it is directed to the Rector of the University of Strassbourg. It concerns itself with the fact that the Hygienic Institute is to be recognized as a so-called Military Institute, and it is signed by Prof. Dr. Haagen, and not STABSARZT Haagen, and there is nothing in this letter concerning hepatitis.

Q Now, one more question. Haagen was a medical officer in the Reserve Corps of the Luftwaffe. Did he not, as such, have an obligation to report on all work and all research commissions that he received from my office whatsoever?

A If all medical officers had had to report on all the work that they did, we should have had to open up another Medical Inspectorate.

Q In other words, there was no such obligation on their part?

A No; there was never any mention of that, either.

Q In the same context, witness, please look in the same Document Book, Number VIII, NO-299, Exhibit 190. It is on page 8. This is again a letter from Haagen to Dr. Schreiber at the Military Academy in Berlin, and it is addressed, "Honored Generalarzt." There is no signature, consequently we do not know in what capacity Haagen signed it. At

any rate, from the heading, "Honored Generalarzt," it can be assumed that this is a military matter here, an affair which, perhaps, had some contact with the Medical Inspectorate of the Luftwaffe even though that may have been circuitously. What can you say about it?

A First of all, it can be seen from this letter that it did not come through channels. It went through the Medical Inspectorate. Moreover, there were no military relationships between Haagen and Schreiber. On the contrary, it is the University Professor Haagen who is writing to the University Professor Schreiber in Berlin, in this letter. By accident, one is Generalarzt, and the other, by accident, is Oberstabsarzt, of the Luftwaffe. It is purely fortuity - and plays no role in this letter.

Q Just to make it clear... who was this Professor Schreiber?

A He was a research worker for the Reich Research Council on the question of epidemics.

Q Now, what was his relationship in such work on epidemics and his research work, that is here under consideration.

A What his relationship was -- I should not like to say anything under oath about this. He was a deputy of the Reich Research Council, as I said, but since Haagen received commissions regarding typhus and hepatitis from the Reich Research Council, one must assume that he received them from Schreiber.

Q You mean that Professor Schreiber, in the Reich Research Council, was working on this hepatitis question on a research commission?

A That can be deduced from what Gutzeit said here, as Handloser's witness, but I know nothing about it myself.

Q. We know that the prosecution is putting in all these documents in order to prove the existence of certain experiments on human beings. Now, let me refer to another document in which the name Dohmen appears. Dr. Dohmen is mentioned here. In the first paragraph of this document there is mentioned of an invitation that Dr. Dohmen discussed this matter with you ... or rather, with Haagen. Did you know anything of this planned work, involving Dohmen and Haagen?

A. No, I knew nothing about that.

Q. Furthermore, in this document, witness, in the next paragraph, it is said that Haagen is approaching Schreiber for his assistance in procuring mice. This is the second paragraph -- let me quote it-- HC-299... Dr. Haagen writes:

"At the same time I should like to approach the subject of your negotiations for mice. My supplies, and particularly my cultures, are so depleted that they absolutely must be rejuvenated and refilled. You told me in Hohenlychen that it is possible for you to secure mice, even in large numbers. May I ask you to endeavor to secure for me several thousand mice of both sexes, preferably only young animals."

Witness, to me as a lay-man this was nothing, and I can't imagine what this might have to do with experiments on human beings. Now you are no expert in the field of hepatitis but you are a doctor and perhaps you can just tell us what the connection is?

A. I can only say that I can find in this letter not the least intimation that there is any question here of experiments on human beings.

Q. Now, the last paragraph, which is of particular importance for you ... Haagen writes in this paragraph:

"Thirdly, I would like to ask whether the Hepatitis research will be carried on in future out of funds of the Reich Research Council.

My funds for this branch are now exhausted and I am faced with the question whether to apply for further funds to my Medical Chief of the Luftwaffe, or to you. I would be grateful to you to be informed about this shortly."

Now, does this show any connection between the Inspector of the Luftwaffe and the Reformat which handles research assignments on the one hand, and hepatitis experiments of Haagen, on the other hand?

A. In agreement with the Document NO 137, Exhibit 189 ... it can be seen from this letter that the research for hepatitis was assigned by the Reich Research Council, and also financed by them. At least, until 12 June 1944 the Medical Inspector of the Luftwaffe had nothing at all to do with Haagen's hepatitis research.

Q. Did Haagen later turn to the Chief of the Medical Inspectorate of the Luftwaffe for a research assignment in hepatitis .. which is, after all, a possibility?

A. I know of no such application on his part.

Q. In this document, witness, there is talk of collaboration concerning the hepatitis question between Buchner, Falk, Haagen, and other research men. All these physicians, as we know from other documents, are members of the Reserve Corps of the Luftwaffe. These are research matters and so I may ask you whether you know anything of this collaboration.

A. No.

Q. Witness -- just to clarify this whole business -- one interim question .. These special fields that are here under discussion: Hepatitis, Yellow Fever, Typhus -- and so forth .. In other words -- all these fields ... were you, in these fields, a specialist?

A. No.

Q. You know of no such collaboration .. Well, now on the question of hepatitis. Did you know anything about hepatitis work in Breslau, which played a considerable role here?

A. I heard of this hepatitis conference in Breslau for the first time here, and I may recall that even Professor Rose as consultant hygienist of the medical chief of the Luftwaffe heard of this conference only after it was all over.

DR. TIPP: Your Honors, let me bring to your attention in this connection that regarding this collaboration with regard to Haagen, Buechner and Kalk, what was said in the case before by Dr. Schroeder, to wit, an affidavit of 9 January 1947 from Buechner, which was put in evidence and is in Schroeder's Document Book on page 58, Schroeder Document No. 18. It was given Exhibit Number Schroeder 17. Buechner, in this affidavit, explains just the nature of that collaboration was to be.

BY DR. TIPP:

1. Another hepatitis question, witness, based on Document NO-126, Exhibit 185, Document Book VIII, page 14. This is a letter from Oberstarzt Haagen, of 27 June 1944, to — and I quote: "Oberstarzt Prof. Dr. Kalk, with the Chief of the Luftwaffe Medical Services." This letter, then, according to what I just quoted, went to a member of your office, at least one can assume that. Did you know anything about this correspondence?

A. Up; and I may say that this letter is addressed to Professor Kalk personally, and that the address, quote: "With the Chief of the Luftwaffe Medical Services Saalow" — unquote, is simply to inform the postal authorities where the letter was to be sent. At the end of June 1944 lots of inhabitants of Berlin had been bombed out, including Kalk; and to be sure that this letter reached Kalk it was addressed by Haagen's office with the hope that it would be forwarded. It was, however, personal, as can be seen from the heading — "Dear Herr Kalk."

Q. In the second part of the same letter Haagen says that experiments on human beings were to be carried out. And he says... I may quote the last sentence: "Could you in your official position take

the necessary steps to obtain the required experimental subjects? I don't know what sort of subjects Gutzeit has at his disposal -- whether they are soldiers or other people." Now, that is a question whether Kalk, in his official capacity, through the Chief of the Luftwaffe Medical service could take steps to get experimental subjects for intended experiments on human beings. Did you ever know that such experiments were planned, or did you know that your office was taking any steps in this direction?

A. I have no direct personal knowledge of that. I have no idea whether Kalk did anything about this request. I can refer briefly to various testimony on the part of witnesses here ... first, what Prof. Gutzeit said here; but, above, all, what the prosecution witness, Fraulein Edith Schmidt said here on the 9th of January 1947, page 3181 of the German record, on page 1373 of the English record. And this prosecution witness Edith Schmidt said, perfectly clearly, that no human being experiments were carried out regarding the experiments of hepatitis.

Q. Let me point out, in addition, that Professor Kalk has also given an affidavit that has some bearing on this. It is Schroeder Exhibit 15. A further question, witness. The prosecution on the 10th of December 1946 made the statement that Dr. Haagen was active at the Institute in Strassbourg and that Haagen had received his orders from the defendant Becker-Freysong. What can you say about

this Institute, and regarding the fact that you are alleged to have given him orders in hepatitis research?

A First of all, I knew of no Institute for Medical Research in Strassbourg. From Fraulein Edith Schmidt or Olga Eyer, I did hear in this court that there was in effect some such institute and that it was part of the medical department of the University of Strassbourg. However, since I was not dean of the Medical Department of the University of Strassbourg, I was not in a position to issue any order to this institute. Secondly, Haagen was director of the Hygiene Institute of Strassbourg and was not a member of this Medical Research Institute. Then, moreover, I couldn't and didn't give Haagen any orders.

Q In this connection, Your Honors, let me draw your attention to an affidavit by Zuckschwerdt of 21 January 1947, which is in Schroeder Document Book 19, Page 61, Schroeder Exhibit No. 18. For the convenience of the Court, I have included this document in the Becker-Freyseng Document Book. I don't want to put it into evidence again nor give it an Exhibit number, but it is in the document book on page 142, in Document Book No. 2. Let me point out that Dr. Zuckschwerdt, in his affidavit, declared:

"The Institute for Medical Research in Strassbourg, as an integral part of the University, came under the Dean of the Medical Faculty. The head of the Luftwaffe Medical Service had nothing to do with it."

In connection with the hepatitis research, Mr. President, I have also to put in evidence Becker-Freyseng Document No. 33 on page 143 of the Document Book No. 2. This is something to supplement Dr. Kalk's affidavit. It is the report on the journey made by Professor Kalk on 10 March 1945 in his capacity as consulting interne, which was submitted to the Chief of the Luftwaffe Medical Service and which tells what was done by the Luftwaffe in the field of hepatitis. This will be Exhibit 19. I do not wish to quote anything from the document, but should like to draw it to the attention of the Tribunal. This concludes my treatment of the hepatitis question.

Summing up, witness, I may say that this entire subject was unknown to you at the time, and you have pointed out that the prosecution witness, Edith Schmidt, has stated that there were no human being

experiments in hepatitis research. Have I summed you up correctly?

A Yes.

Q I turn now to another subject, the subject of typhus. You are charge, witness, with special responsibility for and participation in typhus experiments from December '41 to February '45, in Buchenwald and in Natzweiler concentration camps. You have heard the prosecution's case in this matter, witness, and consequently you know that the experiments were carried out in Buchenwald by Dr. Ding-Schuler, and according to the prosecution, by your co-defendant Dr. Hoven. The experiments in Natzweiler, on the other hand, are connected with the name of Professor Dr. Haagen and his associates. The prosecution kept these two subjects apart. I shall follow their example and ask you what connections exist between you and your referat in the Medical Inspectorate and the experiments in Buchenwald.

A None.

Q Did you know anything about these experiments?

A Nothing about the experiments, nor about Buchenwald, nor about Ding-Schuler or Hoven.

Q You have heard how Professor Rose, who was also charged with this matter, spoke of the Buchenwald question and his participation in it. Therefore, I need only ask you regarding this matter; during your activity in the Medical Inspectorate, did you know anything of this aspect of Dr. Rose's activities?

A No. Let me remind you that Professor Rose stated here on the stand that everything that he had done or written in this connection was done in his capacity as a member of the Robert Koch Institute.

Q I now turn to the experiments which Haagen is alleged, by the prosecution, to have carried out in Natzweiler. Haagen was an Oberstabsarzt of the Luftwaffe, and from the end of '43 on he was consulting hygienist in the air fleet "Middle." What did you know about Haagen and his work during the war?

A Of his work, I knew nothing. When I took over the referat in May 1944, I found out that Professor Haagen had a research assignment

on the production of typhus vaccine. Therefore, I had nothing to do with these research assignments, and Professor Rose was kind enough to corroborate this for me in the prosecution document NO-306, Exhibit No. 296. Page 47 of the English Document Book.

Q Witness, you have already said that all research assignments had the file note 55, and that for the sake of keeping things straightened out in the files, they were all worked on by the referat for Aviation Medicine; but actually only research assignments that really concerned aviation were worked on by your referat, the other ones were turned over to the referents who were concerned in the fields which were involved in the specific research assignments, is that correct?

A Yes, it is.

Q Now, in point of fact, which Referat competent to handle research assignments involving typhus research? Who was the competent fellow?

A That was the referent for vaccines, namely, the referent for hygiene.

Q Then you did have a separate referat for hygiene in the Medical Inspectorate?

A Yes.

Q Now, witness, since this file note number plays such a large role in this trial, what was the file number for the referat for hygiene?

A 49, with a few numbers after it.

Q That is the same file number that you talked about in the case of the freezing research?

A Yes.

Q You said previously that as assistant referent, you had nothing at all to do with working on research assignments and that you came in touch with the formal aspect of research assignments only when you took over the referat as referent, namely in May 1944. So from that time on, you did work on the formal aspect of research assignment didn't you?

A Yes.

Q Now, which referat took care of the factual part or aspect of the research assignments?

A I don't believe a man is to be blamed if he is working in aviation medicine and doesn't happen to know very much about hygiene, and if he therefore sends the research assignments that concern those matters over to the referat for hygiene.

Q Now in May '44, when you took over the referat, you first got in touch with Haagen in these research matters, what documents or data did you find when you first came in touch with these problems?

A I assume that the way we did our business in the office is the same way everyone else did his; at any rate, in the referat I simply found a few documents in the files including a list of research assignments. All the other files and documents were in the central filing office and were taken from the central filing office only when needed.

Q The documents that refer to Haagen concerning typhus, did you ever see them, having taken them from the central filing office?

A Once, I certainly saw them; namely, when in the autumn of 1944 I sent all these documents to the instruction research group at Jueterbog, and it's possible that I saw them some other time too. But since this is a field in which I really had nothing to do, I can't remember that.

Q But perhaps you do know, witness, just what these documents consisted of that you had given to you by the central filing office?

A Without being able to go into details, these were probably several applications from Haagen to have himself given a research assignment; perhaps a copy of the research assignment itself and probably one or more interim reports from Haagen on the course of the experimentation. That is at any rate what would normally be found among the files recording a research assignment.

Q. So you don't actually remember these documents for certain, do you witness?

A. No.

Q. Do you remember from these documents it could be seen how Haagen was working, to be concrete and specific, was there anything in these documents to the effect that Haagen, as the Prosecutor asserted, was carrying out any sort of work in Natzweiler?

A. I have no recollection of that but I consider it out of the question, and I am supported in my recollection here by one or two affidavits which are to be put in evidence later.

Q. Now, your personal relations with Professor Haagen were what, did you know him?

A. Yes.

Q. Can you tell us when you made his acquaintance?

A. It happens that I can do so very precisely, about the third or 4th of July 1944 in an express train between Heidelberg and Freiburg. I was in the company of my Chief, Professor Schroeder, and was going to a conference at the German Academy for Aviation Research which was to take place in Buechner's Institute, and Haagen was on the same train and Professor Schroeder introduced me to him.

Q. Did you meet him again personally after that, and if so when and under what circumstances?

A. I saw Haagen for the second time in the last days of July 1944. I even at this time ventured into the lion's den itself, and saw him in his institute at Strasbourg. I had other business in Strasbourg. I will state briefly what that was. Shortly there-to-fore I had taken over the medical sub-department of the medical institute of the Air Ministry which Dr. Benzinger had previously represented. A few research commissions had been given by this office to gentlemen in the Strasbourg university, including the assignment to the Pharmaceutical Institute of Strasbourg, Professor Schlermer. This research assignment concerned the artificial produc-

tion of coffeein. Since the office of the Medical Inspector had a conference planned for the end of August 1944 on pervitin, benzedrin and coffeein, I wanted to talk with Professor Schlemmer in order to see just what this work he was doing was, and whether it would be a good idea for him to participate in the conference, and to read a paper on his work, and actually he did come to the conference.

Q. You said, witness, that you didn't go to Strasbourg to see Haagen, but that you did visit him in his institute; on this occasion did you discuss Haagen's research assignments with him?

A. When I submitted my request for a day trip to my departmental chief, I also asked whether I might visit Haagen to discuss a few questions with him, to-wit, the question of the experimental animals. Then I visited Haagen in his institute. He showed me through part of his institute and he showed me the animal breeding stations, which the witness Augustinick has already described here. I discussed at great length with him what amount and what sorts of experimental animals he needed. I was immediately concerned with the question of experimental animals officially, because for our enormous research institutes, I had to concern myself with their current needs for experimental animals and consequently had close connections with the persons in charge of breeding and dealing with these experimental animals.

Q. Witness, do you remember what sort of experimental animals Haagen asked you for at that time, mice, guinea pigs, what were they?

A. Above all it was mice and rabbits.

Q. Haagen then asked you to procure some experimental animals for him; could you meet his request for him or what did you do about it?

A. A few days thereafter I spoke with a competent man of the Luftwaffe in this matter and I asked this Dr. Suchalla to himself get in touch with Haagen because Haagen had very specific questions about the quality and nature of these experimental animals.

DR. TRIPP: Mr. President, in this context I propose to put in a document from Becker Freysong Document Book 4. I do not know

whether that volume has yet come into the hands of the Tribunal. In any event the Secretary General has the English translation of these documents and I should be glad if he would give copies to the court, the Prosecution and Interpreter.

MR. HARDY: I will conceive, Your Honor, I looked on my desk at noon and it wasn't there, and I do not have the document book.

THE PRESIDENT: Has counsel for the Prosecution this document now going offered?

DR. TIPP: Perhaps the secretary General would be so kind as to give a copy also to the interpreters.

Then Mr. President, from this Document Book 4, if I may put in Document 61, from page 319 of the document book. This will be exhibit 20. This is in--

THE PRESIDENT: Has counsel for the Prosecution read this document?

MR. HARDY: No, Your Honor. He may put it in at this time and I will follow it by any objections.

DR. TIPP: Thank you. This is an affidavit by Dr. Harry Suchalla, that Dr. Becker just mentioned. It was drawn up in Wolbert Rheinland, and is correctly certified, drawn up on the 18 of April 1947.

THE PRESIDENT: Will you give me once more the number of this exhibit? I didn't have the document when you gave it.

DR. TIPP: Exhibit 20, Your Honor.

In numbers 1 and 2 the affidavit describes first of all Dr. Suchalla's clerical and professional activities. In No. 2 he says that he was commissioned with the scientific control of the production of all Luftwaffe rabbit breeding,

"About 500,000 Angora rabbits were kept for the production of Angora wool and the Luftwaffe supplied approximately 200,000 animals, as test rabbits.

I quote from No. 3:

"After I had worked with the military rank of signaller as scientific expert at the Luftgau command Berlin from January 1942 to July 1943, I was transferred to the Luftwaffe medical service as a medical orderly first class in August 1943 and sent to the aviation medical institute, Berlin. At the same time I was ordered by the Supreme Command of the Luftwaffe, Chief of medical services, to develop the Luftwaffe's breeding facilities for rabbits and also to supply mice, rats, guinea pigs and dogs for experimental purposes. In connection with this official task I was in constant touch with the consulting Stabsarzt Professor Dr. Anthony at the Medical Inspectorate, section aviation medicine until approximately May 1944; after that time, Dr. Becker-Freyseng became my competent supervising authority in connection with my official work.

"4. At the end of July 1944 I had a discussion with Dr. Becker-Freyseng during which he drew my special attention to the necessity of supplying mice which were wanted by Professor Haagen for the manufacture of a typhus vaccine and he asked me to speak to Professor Haagen personally in order to find out his special requirements.

Dr. Becker-Freyseng had himself previously spoken to Professor Haagen of which he particularly informed me but nevertheless he considered it essential for Professor Haagen and myself to be in direct contact since he himself had no special knowledge of the manufacture of vaccines and could therefore not answer my specific questions about the particular requirements in connection with the test animals. Since Professor Haagen left Strasbourg as early as August 1944 because of the war events in the west, this personal contact came about only in January 1945 at Oberschreiberhau where Haagen had meanwhile again opened a laboratory.

My various conversations with Dr. Becker-Freyseng about this matter convinced me that even after he had been personally instructed by Professor Haagen, he knew only about Haagen's animal experiments."

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I may say something about the rest of the Document, specifically No. 6, let me quote from it:

"Since during the war it became more and more difficult to obtain experimental animals, Dr. Becker-Freysang discussed with me in the summer of 1944 new possibilities of supplying the institutes of the Luftwaffe despite these difficulties through own breeding stations. I made appropriate suggestions, which were supported most generously by all members of the office of the chief of medical services. I then was given two research orders by the chief of medical services of the Luftwaffe, Generaloberstabsarzt Professor Schroeder, each to the value of 50,000 Reichsmarks. The first order was concerned with breeding certain strains of mice for the production of typhus vaccine, the second order referred to the building up of an experimental animal farm for all the usual test animals such as mice, rats, guinea pigs, rabbits, cats and dogs."

I believe that I need not read the rest of the document. It is correctly signed and certified.

Witness, in connection with the typhus research, it is necessary to discuss a few Prosecution documents with you from which the Prosecution, when presenting its case drew the conclusion that you worked with Haagen and that consequently you knew of Haagen's activities in Natzweiler. As the first document of this sort, I should like to put to you from document book 8, correction, document book 12, page 98, document No. 121, Exhibit 308. This is a letter from the High Command of the Luftwaffe, Chief of the Medical service, file No. 55, secret code (II-2-a), dated 29 August 1944 from Zossen. It carries the designation of your Referat, namely II-2-a and it is of the time when you yourself were the Referent. The Prosecution bases on this

letter the charge that you were intimately acquainted with Haagen's work. Now please take up this document point by point; did it originate with you, or did you work with it or on it?

A. I knew Paragraph I of this document. This paragraph I is a typical explanation of the work which was carried on in the Referat Aviation Medicine, which bore no actual aviation medicine character. In other words, a research assignment which had a non-aviation medical character, and it was for this kind of work that my referat carried out the purely organizational tasks. Under Paragraph III you find the Referat budget. In that case, Haagen probably requested financial aid for his research work and I must have discussed this request with the Budget Referent who was competent for that kind of work. This Budget Referent, of course, had no financial misgivings and consequently this directive was issued, according to which 24,000 Reichsmarks was placed at the disposal of this work. As to the other parts of this letter, I had no idea and I thought here for a considerable period of time what it could mean.

B. In order to summarize the contents of the other paragraphs briefly, you will find that under No. II it states: no decision can yet be made for the establishment of a production plant for vaccines, since the chief of the Army Medical Service has not yet made the final decision. Paragraph III is a question whether the typhus epidemic at Natzweiler is connected with the vaccine research. Paragraph IV points out that a report of 21 June 1944, in which the investigations at Natzweiler are mentioned should have been sent as secret matter.

These no doubt were technical questions concerning the

field of typhus, which you did not handle as you stated before. On the other hand, that letter bears the number of your Referat, therefore originates from it; could you please explain, witness, how it is that these three points are mentioned in that very letter?

A. I happen to be in a position to clarify that. First let me point out that the installation for a vaccine production place and the report about an alleged typhus epidemic are both extremely important points, which of course cannot be handled by everybody, but must be handled by the competent official referant. In particular, the field of the report of epidemics plays a considerable part in every central agency. In addition, let me point out that Professor Rose in this witness stand has explained on 23 April 1947 on page 3385 of the German transcript, that upon his instigation this question, as mentioned in paragraph III, had been put to Heagen, and since Professor Rose was the consulting hygienist his suggestions naturally went to the Referat Hygiene and not to the Referat Aviation Medicine. This letter was sent on 29 August 1944. It was customary in our office, as everywhere else, that the date was inserted at the time the signature was written.

2. In this connection, I may point out, Mr. President, that in the photostatic copy, which is before me, the date is not written by typewriter but was inserted by ink or pencil. That means that whoever signed that letter at the same time inserted the date.

THE PRESIDENT: Did the counsel for the Prosecution see the signature of the letter?

DR. TIPP: I am afraid that I did not understand your question.

MR. HARDY: I have the original here, Your Honor.

BY DR. TIPP:

Q. The signature reads Kahnt. Without having to ask the witness, I may be able to say Kahnt was the chief of staff at that time.

A. Well, this letter was presented on 29 August 1944 to the chief of staff for his signature and according to our office procedure had been dictated perhaps one or two days earlier by the Referent. I happen to know that during these days, the 27th the 28th and 29th of August, 1944, I was certainly not in the office, but was somewhere else.

Q. Mr. President, in that connection, let me offer from Document Book Becker-Freyseng No. 34. This can be found on page 150 of the document book. I shall give it the exhibit No. 21. It is an affidavit by Dr. Hans Denzer, it was made in Altenhundem on 18 March 1947. Let me quote from Paragraph I.

"1) On 28 and 29 August 1944 a discussion took place in Castle Welkersdorf in Silesia between the directors of the German Institute for Aviation Medicine.

"2) On the following day, 30 August 1944, according to a Goerlitz hotel bill lying before me, a medical-scientific discussion with a larger attendance took place in Goerlitz, Silesia, about 35 kilometers away. The subject for discussion was: 'Methods for Increasing Efficiency'.

"3) As a colleague of Prof. Strughold and head of the 'Schloss Welkersdorf' branch of the Aviation Medicine Research Institute, I was in charge of the accommodation and catering for the participants in the two above-mentioned discussions. Dr. Becker Freyseng, who was then Aviation Medicine Consultant with the Chief of the Luftwaffe Medical Services conducted both discussions.

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"4) Dr. Becker-Freyseng arrived at the latest on 26 or 27 August 1944 in Welkersdorf, and did not leave it until one or two days after the conference in Goerlitz, which took place on 30 August 1944, that is to say on 1 or 2 September 1944."

There follows the signature of the witness and the certification by the Notary.

Witness this proves that at the time this letter was sent off, on 29 August 1944, you were not present in your office. On the other hand, you told us before that the Roman Numeral One (I) originates from you and I am referring to Document 131; can you tell us how this letter came about before it was submitted for Mr. Kahnt's signature?

A. The signature on any letter wherein a report is made about a financial matter could not be made by any departmental chief but only by the chief of staff and in many cases only by the chief of the medical service. This means that during the days of the 20th or so I must have submitted a letter to my departmental chief which would probably have corresponded to Paragraph 1 of the letter which is before us here. The departmental chief then kept this letter in order to in his turn submit it to the chief of staff.

Q. May I put an additional question to you in that connection, witness? This really simple letter was prepared for you ready for signature, wasn't it? You must have attached file notes and file index numbers, etc?

A. Yes, that was customary in the case of such letters.

Q. Well now continue to describe this document?

A. Everything else I only assume but I think my explanation is very probable. During the last few days another letter by the Hygiene Referent must have been submitted to the departmental chief, bearing the contents of roman II, III, and IV. Since all of these four points were addressed to the very same man, Professor Haagen in Strassbourg, and since in the final analysis all these four points concerned the same thing, namely typhus production, either the departmental chief or the chief of staff amalgamated these two separate letters and produced the letter which is before us now.

Q. The next letter, witness, is Haagen's reply. This is document of the Prosecution No. 132, Exhibit 310. This is in document volume 12 on page 99 of the English text. It is entitled: "Chief of Staff Surgeon, Oberstabsarzt Professor Dr. E. Haagen, dated Strassburg, 19 September, 1944." It bears the designation "secret" and is directed to the High Command of the Luftwaffe, Chief of the Medical Service. Do you know that letter?

A. I do not remember it. It is possible that I saw it. If I did I deduced no more than that there was a typhus epidemic in a village called Natzweiler about which I didn't know anything and that

this epidemic was introduced from the outside. In other words, this was a matter which did not concern me officially nor scientifically. I had nothing to do with any such reports and if this letter actually did come to my referat I would have had to add that this famous remark did not concern me and would have sent it to the Hygiene referent, but I think this is highly probable, that because all letters after all had to go over the departmental chief before they were distributed among the referents. The departmental chief, of course, knew exactly what his seven or eight referents were doing and certainly wouldn't have sent me such a letter as the referent for aviation medicine. He certainly wouldn't have sent me any report about a typhus epidemic of which he knew I had nothing at all to do.

Q. In order to summarize, witness, you are asserting you had nothing to do with typhus vaccines and typhus production?

A. At any rate not before this trial started.

Q. The Prosecution has submitted a document in this connection from which the representative of the prosecution has drawn a contrary conclusion. This is in document book 12 on page 86 of the English document book. It is document No. 302, and bears also Exhibit No. 302. As it becomes apparent from the signature it is a letter written by the Oberstabsarzt, Dr. Eugen Haagen, dated the 27 April 1944, and is directed to the Minister of Aviation and Commander-in-Chief of the Luftwaffe, L In. 14, Saeelow. Counsel for Prosecution when submitting this document on the 9 January 1947, on page 1349 of the English record, has stated the following and I may quote:

"The next document 302, No. 302, which is being offered as Prosecution Exhibit 302, is a report by Haagen to the Commander in Chief of the Luftwaffe, dated 27 April 1944. It refers to a letter of the 8 January 1944. Here the Tribunal will see and will note code No. L In 14, 2-B, which at that time designated the office of the defendant Becker Freysong." Accordingly, the prosecution thinks that this establishes the connection between you and the Haagen typhus experiments. What can you say about that? Is this conclusion on the

part of the Prosecution correct?

A. This conclusion for many reasons is erroneous, firstly, on the 27 April 1944, Professor Anthony was still the referent. If there was any connection at all it would have been Anthony's office, but it wasn't even Anthony's office, because in reality the file reference number is completely different from ours. During my interrogations and also in my affidavit I explained exactly what the registration number was that belonged to the referat for aviation medicine.

Q. In order to simplify matters for the Tribunal I may point out that the code letters can be found in the affidavit which was made by the defendant on the 24 October 1946. This can be found in document book I, part I, correction, document book III, part I, regarding freezing on page 7 of the German and English text and bears the number 448, Exhibit No. 81. Now witness, would you please continue.

Q. I gladly admit that there is a certain difficulty regarding these numbers since the registration numbers have been subject to a double change. May I repeat briefly: the referat for aviation medicine before my entry in the autumn of 1941 until approximately the middle of 1943 bore the registration number 2, II.-B. Ever since the middle of 1943 until approximately April 1944 the entire agency only had a registration number consisting of two figures and the referat for aviation medicine was designated 2, which was all.

Then came the last designation, lasting from May, 1944, to May, 1945, which again was composed of three figures. And then the Referat for Aviation Medicine was 2 IIA. The corresponding Referat for Hygiene during these same periods was designated 2-I-B, then 2-B, and at the end again the designation of three figures 2-I-B. These two registration numbers which are found in Document No. 302, Prosecution Exhibit No. 302 once under "Reference" and the second time under "Subject" are in the first case 2B, which was the Referat designation for the Referat Hygiene, as of 8 January 1944. The second is the registration number 2-I-B, which is the registration number as of 25 June 1943. Both of these designations belong to the Referat Hygiene, and this is confirmed by two further points in that letter. At first you have the entire contents of the letter. All this is concerned with the production of vaccines from chicken eggs. I never understood anything about that matter and any such procedure was never worked upon within the Referat for Aviation Medicine.

The second point, which seems to correspond with the Referat designation for Hygiene is the file number. This file reference is mentioned twice, once under "Reference" and the second time under "Subject". We are concerned with the number 49rl2F. This, as I know now, but I consider something which I didn't know before, is the file reference for typhus. In order not to allow any more misunderstandings I may point out that this file number 49rl2F belongs together. If it is separated skillfully and the two last letters or figures are separated from the rest of that reference, you will suddenly find the result of 2F, which in the meantime was the Referat for Aviation Medicine. I would like to correct this misunderstanding at this point, or I should say, the possibility for any such misunderstanding.

Q In other words, what you are saying, witness, is that the Referat designation, the file reference 49 had nothing to do with the Referat for Aviation Medicine, just as little as the Referat designation IIB and IB. These were matters for the Referat Hygiene.

A Correct. In addition, I may point out that there is not the slightest hint contained in that document that any experiment on a human being was contemplated. However, that isn't important in this connection.

Q The file references which I just mentioned can be found in a number of other documents, and it can be assumed that the Prosecution, on the basis of these file references, intends to incriminate the defendant Becker-Freysing with these documents. The first of these documents, again, can be found in Document Book No. 12 on Page 114 of the English Document Book. It is the document NO. 310, Prosecution Exhibit 318. The second document, bearing the same file reference, is also in Document Book No. 12, and it is document NO 130, Exhibit 319, Page 120 of the German and English document book. The first letter I mentioned is by Oberstabsarzt Dr. Haagen, consulting hygienist to Airfleet Reich, and is addressed to the Air Fleet Physician Reich at Berlin-Dahlem. Mr. Haagen writes that he is enclosing the copy of a letter to the Reich Minister of Aviation and supreme commander of the Luftwaffe wherein he suggests the establishment of the typhus vaccine production center at the Hygiene Institute or Reich University at Strassbourg.

You have already clarified, witness, that the file reference 49-r and the Referat reference 2-B which is contained in this letter has nothing whatsoever to do with the Referat for Aviation Medicine.

In spite of all that, witness, let me ask you whether you at any time saw this letter, and can you perhaps tell me how any connection with an experiment on human beings can be established as a result of that letter?

A This letter is a typical matter for the Hygiene Referat, and obviously deals with the establishment of a vaccine production center. The number of rooms for guinea pigs, sterilization rooms, packing rooms, are discussed and I can see no indication for any planned, executed, or intended experiments on human beings or experiments.

JUDGE SEBRING: Dr. Tipp, has your defendant stated for the record how many Referats there were in his department and the names of

them or designations? I don't recall.

DR. TIPP: I beg your pardon, Your Honor. The question doesn't seem to be quite clear. What I heard was that the defendant was to say how many Referats there were in his department. In this way the question is not intelligible.

JUDGE SEBRING: Did he not say this morning or yesterday, in making the distinction between Referent, Referat, and Abteilung that there was a — that the Referat was, in effect, a subdepartment? Isn't that what he said? Now then he has been continuously referring to the fact that this communication having to do with vaccines was not a matter for his Referat. Isn't that what he said? How many Referats were there in the Institute or in that phase of it?

DR. TIPP: May I clarify that matter briefly, Your Honor? The Medical Inspectorate had as its head the Chief of the Medical Services. Under him, in turn, there were two departmental chiefs, each of whom had one department. Each one of these departments could be subdivided into a number of Referats. Here we are concerned with the so-called first and second department. In addition to other Referats the second department included the Referat for Hygiene and the Referat for Aviation Medicine. The Referat in the Referat for Aviation Medicine was until 1944 Professor Anthony, and after him the witness Prof. Dr. Becker-Freyseng. Does that answer your question, Your Honor?

JUDGE SEBRING: Yes, I understand that. But then am I to understand when the witness Becker-Freyseng keeps remarking that these communications do not pertain to his Referat that he means by that that they did pertain to the only other Referat under the second department chief, to wit, the Hygiene Referat?

DR. TIPP: Yes. And to make it clear, in case the testimony didn't come through right, all those Referats which bore the number 49 referred to the Referat for Hygiene.

BY DR. TIPP:

Q Witness, these theoretical discussions about the numbers of the various Referats, of course, aren't very pleasant, neither for the Tribunal nor for us, but I think they are somewhat necessary. Let us, perhaps, cease speaking about Referats, but discuss the name of the particular Referent, for purposes of clarification. Could you tell us what Referent, within the Medical Inspectorate, dealt with the matters which bore the number 49?

A During my time it was a Stabsarzt (Captain in the Medical Corps), Atner.

Q In other words, Stabsarzt Atner was the Referent for Hygiene?

A Yes, that is true.

Q Now I shall turn to the next document in this connection.

DR. TIPP: Mr. President, I am being reminded that I just misunderstood something. Perhaps I misunderstood Judge Sebring. I understood somebody to say that Judge Sebring asked how many Referats there were in the second department. Would Judge Sebring be good enough to tell me whether I misunderstood him?

JUDGE SEBRING: I can't precisely say that, but you say there were only two?

DR. TIPP: I beg your pardon, Your Honor. There were two departments. The first was the Organizational Department, and the second was the Medical Department. This trial here is only concerned with the second department. The subdivisions of these departments were the Referats. Concerned here are the Referat Hygiene, under Stabsarzt Atner; and the Referat for Aviation Medicine under Professor Anthony, later under Professor Becker-Freysong. In addition, there were a number of other Referats in this department which, so far, have played no part in this trial.

THE WITNESS: According to my memory, there were eight Referats altogether in that department.

MR. HARDY: That answers my question, Your Honor. I had a question similar to Judge Sebring's in that I understood - and I thought perhaps this was the reason why the Judge was asking that question - that they mentioned yesterday some twenty or twenty-five Referats. Maybe defense counsel could clear that up.

DR. TIPP: I certainly can. In the entire Medical Inspectorate - that is, in the first department and in the second department, plus Referat Budget, which was independent, plus Referat Pharmacy, which was independent too - there were altogether twenty to twenty-five Referats.

I was allowed yesterday to submit a chart or a sketch about this entire organization, which would make the matter still easier.

BY DR. TIPP:

Witness, let us turn to the next document in that connection which again bears the file reference 49, and the Referat designation 2-B. According to your description, this was a matter for St. sarzt - that is, the Referent for Hygiene. This is Document NO-130, bearing the Exhibit No. 319, and can be found in Document Book No. XII, on page 120 of the German and English texts. It is a letter from Oberstasarzt Professor Dr. Haagen, who was the Consulting Physician to the Air Fleet Physician Reich. The title reads: "Report on the Successes with T...B. Chol. Vaccines."

In order to expedite matters, I may, perhaps, point out that I asked Professor Hoering, who testified on behalf of Professor Rose, about this report on the 17th of April 1947. The corresponding replies of the witness can be found on page 6050 of the English record. Herr Hoering, at that time, stated that this document was a collective report of the

consulting hygienists to the Air Fleet, which was compiled from the reports of the individual Air Fleet physicians. It concerns their experiences with a new vaccine, which is the T...B. Chol. Vaccine.

In that connection, witness, may I ask you whether this opinion of Professor Hoering is correct?

A I have no personal knowledge about this particular letter, and I am no hygienist. Since, as a member of the Luftwaffe, however, I was personally vaccinated with this vaccine, I can say what any internec or physician would say, that this is a very simple experience report on the application of a vaccine.

Q In other words, this document has no connection with any experiments on human beings?

A Certainly not.

DR. TIPP: In this entire problem, Mr. President, the question of file references plays a considerable part because, in the case of typhus, the Prosecution always referred the Tribunal to file references in order to prove the responsibility of Dr. Becker-Freysong.

In Document Book No. II, on page 152, I inserted a document under the number 35, which I will give the Exhibit No. 22.

THE PRESIDENT: That is your Document Book No. II?

DR. TIPP: Yes, No. II.

THE PRESIDENT: On what page?

DR. TIPP: Page 152. This document will receive Exhibit No. 22. It is a directive for typhus and booster shots. Its heading is, and I quote: "The Reich Secretary for Aviation and Supreme Commander of the Luftwaffe, File Number 49r, 12F, No. 25989", dating from the year 1942, (L In 14 2-I-B). It is dated 16 September 1942.

I am only submitting this document, Mr. President, because

this shows very clearly that these file numbers do not refer to the Referat of Aviation Medicine. One could hardly assert that typhus booster shots would be a matter for the Referat of Aviation Medicine.

I shall not quote any part of this document, Your Honor. I shall now continue with the discussion of these documents, which I only have to do because of the Prosecution's continual reference to the defendant Dr. Becker-Freysong.
BY DR. TIPP:

Q Now, would you please turn to Document NO-137, which is Exhibit 938? This is the request by Professor Haagen - which was repeatedly mentioned - to the Director of the Reich University at Strasbourg, dated the 7th of October 1943. Counsel for the Prosecution, when dealing with typhus, said on the 9th of January 1944, on page 1387 of the English record the following:

THE PRESIDENT: What document is that?

DR. TIPP: Document NO-137.

Q (Continuing): I shall quote counsel for the Prosecution: "On the next page we shall find a document which we have already submitted to the Tribunal. This is Prosecution Exhibit 189. As you may well remember, this is Haagen's report where he refers to the fact that this concerns the repeatedly mentioned urgent research assignment. I should like to draw your attention to the part which deals with typhus. Here we have the well-known code numbers and letters, 2-II-B, which is the office of Dr. Becker-Freysong."

I think, witness, that this question of file reference has now been clarified, but would you please once more define your attitude towards this point?

A In this connection I may perhaps point out briefly

that this letter originates from the 7th of October, 1943. I, on the other hand, became the Referent on the 15th of May 1944. If there was any connection with any one office it would be the office of Anthony. My general competence as to the handling of research assignments can be seen from Exhibit No. 136 of the Prosecution, the letter of Professor Rose to Professor Haagen of the 9th of June 1943, in Document Book XII, page 77 of the German book, and page 74 of the English.

Perhaps I may also draw your attention to yet another little error. On the 9th of January 1947, on page 1397 of the German and page 1387 of the English record, counsel for the Prosecution stated, and I quote: "Professor Rose had knowledge about the activity and plans of the Chief of the Medical Department of the Research Institute belonging to the Luftwaffe. This was Anthony, whose deputy was Becker-Freysong."

The Medical Department of the Research Institute of the Luftwaffe can only be the Referat of Aviation Medicine, Referent Anthony, whose assistant Referent I was.

DR. TIPP: Mr. President; I have a number of further questions on this complex, which will take some considerable time. I think it would be expedient to adjourn at this time in order to conclude this matter tomorrow morning.

THE PRESIDENT: I call the attention of the Secretary General to an extra page from Document Book IV that was sent up here. Some other document might be short without that.

The Tribunal will now be in recess until 9:30 o'clock tomorrow morning.

(At 1530 hours, 21 May 1947, a recess was taken until 0930 hours, 22 May 1947).

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